

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1350
OFFERED BY MR. CASTLE

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Improving Education
3 Results for Children With Disabilities Act of 2003”.

4 TITLE I—GENERAL PROVISIONS

5 SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS
6 WITH DISABILITIES EDUCATION ACT.

7 Sections 601 through 603 of the Individuals with
8 Disabilities Education Act (20 U.S.C. 1400–1402) are
9 amended to read as follows:

10 “PART A—GENERAL PROVISIONS

11 “SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;
12 PURPOSES.

13 “(a) SHORT TITLE.—This Act may be cited as the
14 ‘Individuals with Disabilities Education Act’.

15 “(b) TABLE OF CONTENTS.—The table of contents
16 for this Act is as follows:

“PART A—GENERAL PROVISIONS

“Sec. 601. Short title; table of contents; findings; purposes.

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

“Sec. 605. Acquisition of equipment; construction or alteration of facilities.



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- “Sec. 606. Employment of individuals with disabilities.
- “Sec. 607. Requirements for prescribing regulations.
- “Sec. 608. State administration.

“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH
DISABILITIES

- “Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
- “Sec. 612. State eligibility.
- “Sec. 613. Local educational agency eligibility.
- “Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
- “Sec. 615. Procedural safeguards.
- “Sec. 616. Monitoring, enforcement, withholding, and judicial review.
- “Sec. 617. Administration.
- “Sec. 618. Program information.
- “Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

- “Sec. 631. Findings and policy.
- “Sec. 632. Definitions.
- “Sec. 633. General authority.
- “Sec. 634. Eligibility.
- “Sec. 635. Requirements for statewide system.
- “Sec. 636. Individualized family service plan.
- “Sec. 637. State application and assurances.
- “Sec. 638. Uses of funds.
- “Sec. 639. Procedural safeguards.
- “Sec. 640. Payor of last resort.
- “Sec. 641. State Interagency Coordinating Council.
- “Sec. 642. Federal administration.
- “Sec. 643. Allocation of funds.
- “Sec. 644. Authorization of appropriations.

“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN
WITH DISABILITIES

- “Sec. 651. Findings.

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

- “Sec. 652. Purpose.
- “Sec. 653. Eligibility and collaborative process.
- “Sec. 654. Applications.
- “Sec. 655. Use of funds.
- “Sec. 656. State grant amounts.
- “Sec. 657. Authorization of appropriations.

SUBPART 2—SCIENTIFICALLY BASED RESEARCH; TECHNICAL ASSISTANCE;
MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND
PERSONNEL PREPARATION PROGRAMS

- “Sec. 661. Purpose.
- “Sec. 662. Administrative provisions.
- “Sec. 663. Research to improve results for children with disabilities.



“Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.

“Sec. 665. Personnel preparation programs to improve services and results for children with disabilities.

“Sec. 666. Studies and evaluations.

“Sec. 667. Authorization of appropriations.

“SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH
DISABILITIES

“Sec. 671. Purposes.

“Sec. 672. Parent and community training and information centers.

“Sec. 673. Technical assistance for parent and community training and information centers.

“Sec. 674. Technology development, demonstration, and utilization; and media services.

1 “(c) FINDINGS.—Congress finds the following:

2 “(1) Disability is a natural part of the human
3 experience and in no way diminishes the right of in-
4 dividuals to participate in or contribute to society.
5 Improving educational results for children with dis-
6 abilities is an essential element of our national policy
7 of ensuring equality of opportunity, full participa-
8 tion, independent living, and economic self-suffi-
9 ciency for individuals with disabilities.

10 “(2) Before the date of the enactment of the
11 Education for All Handicapped Children Act of
12 1975 (Public Law 94–142) the special educational
13 needs of millions of children with disabilities were
14 not being fully met and there were many children
15 with disabilities participating in regular school pro-
16 grams whose undiagnosed disabilities prevented
17 them from having a successful educational experi-
18 ence.



1 “(3) Since the enactment and implementation
2 of the Education for All Handicapped Children Act
3 of 1975, this Act has been successful in ensuring
4 children with disabilities and the families of such
5 children access to a free appropriate public edu-
6 cation and in improving educational results for chil-
7 dren with disabilities.

8 “(4) Over 25 years of research and experience
9 has demonstrated that the education of children with
10 disabilities can be made more effective by—

11 “(A) having high expectations for such
12 children and ensuring their access to the gen-
13 eral education curriculum in the regular class-
14 room to the maximum extent possible in
15 order—

16 “(i) to meet developmental goals and,
17 to the maximum extent possible, the chal-
18 lenging expectations that have been estab-
19 lished for all children; and

20 “(ii) to be prepared to lead productive
21 and independent adult lives, to the max-
22 imum extent possible;

23 “(B) strengthening the role and responsi-
24 bility of parents and ensuring that families of
25 such children have meaningful opportunities to



1 participate in the education of their children at
2 school and at home;

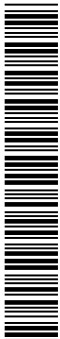
3 “(C) coordinating this Act with other local,
4 State, and Federal school improvement efforts,
5 including efforts under the Elementary and
6 Secondary Education Act of 1965, in order to
7 ensure that children with disabilities benefit
8 from such efforts and that special education
9 can become a service for such children rather
10 than a place where they are sent;

11 “(D) supporting high-quality, intensive
12 professional development for personnel who
13 work with children with disabilities;

14 “(E) providing incentives for scientifically
15 based reading programs and prereferral inter-
16 vention services to reduce the need to label chil-
17 dren as disabled in order to address their learn-
18 ing needs;

19 “(F) focusing resources on teaching and
20 learning while reducing paperwork and require-
21 ments that do not assist in improving edu-
22 cational results; and

23 “(G) supporting the development and use
24 of technology, including assistive technology de-



1 vices and services, to maximize accessibility for
2 children with disabilities.

3 “(5) While States, local educational agencies,
4 and educational service agencies are primarily re-
5 sponsible for providing an education for all children
6 with disabilities, it is in the national interest that
7 the Federal Government have a supporting role in
8 assisting State and local efforts to educate children
9 with disabilities in order to improve results for such
10 children and to ensure equal protection of the law.

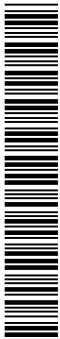
11 “(6) A more equitable allocation of resources is
12 essential for the Federal Government to meet its re-
13 sponsibility to provide an equal educational oppor-
14 tunity for all individuals.

15 “(7)(A) The Federal Government must respond
16 to the growing needs of an increasingly diverse soci-
17 ety.

18 “(B) America’s ethnic profile is rapidly chang-
19 ing. In the year 2000, nearly one of every three per-
20 sons in America was a member of a minority group
21 or was limited English proficient.

22 “(C) Minority children comprise an increasing
23 percentage of public school students.

24 “(D) With such changing demographics, re-
25 cruitment efforts for special education personnel



1 should focus on increasing the participation of mi-
2 norities in the teaching profession in order to pro-
3 vide appropriate role models with sufficient knowl-
4 edge to address the special education needs of these
5 students.

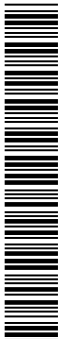
6 “(8)(A) The limited English proficient popu-
7 lation is the fastest growing in our Nation, and the
8 growth is occurring in many parts of our Nation.

9 “(B) Studies have documented apparent dis-
10 crepancies in the levels of referral and placement of
11 limited English proficient children in special edu-
12 cation.

13 “(C) This poses a special challenge for special
14 education in the referral, assessment, and provision
15 of services for our Nation’s students from non-
16 English language backgrounds.

17 “(9)(A) Greater efforts are needed to prevent
18 the intensification of problems connected with
19 mislabeling and high dropout rates among minority
20 children with disabilities.

21 “(B) More minority children continue to be
22 served in special education than would be expected
23 from the percentage of minority students in the gen-
24 eral school population.



1 “(C) African-American children are overidenti-
2 fied as having mental retardation and emotional dis-
3 turbance at rates greater than their white counter-
4 parts.

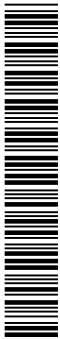
5 “(D) In the 1998-99 school year, African Amer-
6 ican children represented just 14.8 percent of the
7 population aged 6 through 21, but comprised 20.2
8 percent of all children with disabilities.

9 “(E) Studies have found that schools with pre-
10 dominantly Caucasian students and teachers have
11 placed disproportionately high numbers of their mi-
12 nority students into special education.

13 “(10)(A) As the number of minority students in
14 special education increases, the number of minority
15 teachers and related services personnel produced in
16 colleges and universities continues to decrease.

17 “(B) The opportunity for full participation by
18 minority individuals, organizations, and historically
19 black colleges and universities in awards for grants
20 and contracts, boards of organizations receiving as-
21 sistance under this Act, peer review panels, and
22 training of professionals in the area of special edu-
23 cation is essential to obtain greater success in the
24 education of minority children with disabilities.

25 “(d) PURPOSES.—The purposes of this title are—



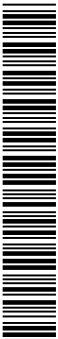
1 “(1)(A) to ensure that all children with disabil-
2 ities have available to them a free appropriate public
3 education that emphasizes special education and re-
4 lated services designed to meet their unique needs
5 and prepare them for further education, employ-
6 ment, and independent living;

7 “(B) to ensure that the rights of children with
8 disabilities and parents of such children are pro-
9 tected; and

10 “(C) to assist States, localities, educational
11 service agencies, and Federal agencies to provide for
12 the education of all children with disabilities;

13 “(2) to assist States in the implementation of
14 a statewide, comprehensive, coordinated, multidisci-
15 plinary, interagency system of early intervention
16 services for infants and toddlers with disabilities and
17 their families;

18 “(3) to ensure that educators and parents have
19 the necessary tools to improve educational results for
20 children with disabilities by supporting system im-
21 provement activities; coordinated research and per-
22 sonnel preparation; coordinated technical assistance,
23 dissemination, and support; and technology develop-
24 ment and media services; and



1 “(4) to assess, and ensure the effectiveness of,
2 efforts to educate children with disabilities.

3 **“SEC. 602. DEFINITIONS.**

4 “Except as otherwise provided, as used in this Act:

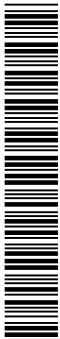
5 “(1) ASSISTIVE TECHNOLOGY DEVICE.—The
6 term ‘assistive technology device’ means any item,
7 piece of equipment, or product system, whether ac-
8 quired commercially off the shelf, modified, or cus-
9 tomized, that is used to increase, maintain, or im-
10 prove functional capabilities of a child with a dis-
11 ability.

12 “(2) ASSISTIVE TECHNOLOGY SERVICE.—The
13 term ‘assistive technology service’ means any service
14 that directly assists a child with a disability in the
15 selection, acquisition, or use of an assistive tech-
16 nology device. Such term includes—

17 “(A) the evaluation of the needs of such
18 child, including a functional evaluation of the
19 child in the child’s customary environment;

20 “(B) purchasing, leasing, or otherwise pro-
21 viding for the acquisition of assistive technology
22 devices by such child;

23 “(C) selecting, designing, fitting, custom-
24 izing, adapting, applying, maintaining, repair-
25 ing, or replacing of assistive technology devices;



1 “(D) coordinating and using other thera-
2 pies, interventions, or services with assistive
3 technology devices, such as those associated
4 with existing education and rehabilitation plans
5 and programs;

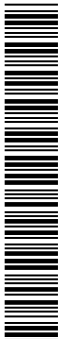
6 “(E) training or technical assistance for
7 such child, or, where appropriate, the family of
8 such child; and

9 “(F) training or technical assistance for
10 professionals (including individuals providing
11 education and rehabilitation services), employ-
12 ers, or other individuals who provide services to,
13 employ, or are otherwise substantially involved
14 in the major life functions of such child.

15 “(3) CHILD WITH A DISABILITY.—

16 “(A) IN GENERAL.—The term ‘child with a
17 disability’ means a child—

18 “(i) with mental retardation, hearing
19 impairments (including deafness), speech
20 or language impairments, visual impair-
21 ments (including blindness), serious emo-
22 tional disturbance (hereinafter referred to
23 as ‘emotional disturbance’), orthopedic im-
24 pairments, autism, traumatic brain injury,



1 other health impairments, or specific learn-
2 ing disabilities; and

3 “(ii) who, by reason thereof, needs
4 special education and related services.

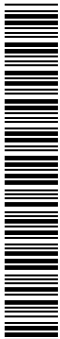
5 “(B) CHILD AGED 3 THROUGH 9.—The
6 term ‘child with a disability’ for a child aged 3
7 through 9 or any subset of that age range, in-
8 cluding ages 3 through 5, may, at the discretion
9 of the State and the local educational agency,
10 include a child—

11 “(i) experiencing developmental
12 delays, as defined by the State and as
13 measured by appropriate diagnostic instru-
14 ments and procedures, in one or more of
15 the following areas: physical development,
16 cognitive development, communication de-
17 velopment, social or emotional develop-
18 ment, or adaptive development; and

19 “(ii) who, by reason thereof, needs
20 special education and related services.

21 “(4) EDUCATIONAL SERVICE AGENCY.—The
22 term ‘educational service agency’—

23 “(A) means a regional public multiservice
24 agency—



1 “(i) authorized by State law to de-
2 velop, manage, and provide services or pro-
3 grams to local educational agencies; and

4 “(ii) recognized as an administrative
5 agency for purposes of the provision of
6 special education and related services pro-
7 vided within public elementary and sec-
8 ondary schools of the State; and

9 “(B) includes any other public institution
10 or agency having administrative control and di-
11 rection over a public elementary or secondary
12 school.

13 “(5) ELEMENTARY SCHOOL.—The term ‘ele-
14 mentary school’ means a nonprofit institutional day
15 or residential school that provides elementary edu-
16 cation, as determined under State law.

17 “(6) EQUIPMENT.—The term ‘equipment’
18 includes—

19 “(A) machinery, utilities, and built-in
20 equipment and any necessary enclosures or
21 structures to house such machinery, utilities, or
22 equipment; and

23 “(B) all other items necessary for the
24 functioning of a particular facility as a facility
25 for the provision of educational services, includ-



1 ing items such as instructional equipment and
2 necessary furniture; printed, published, and
3 audio-visual instructional materials; tele-
4 communications, sensory, and other techno-
5 logical aids and devices; and books, periodicals,
6 documents, and other related materials.

7 “(7) EXCESS COSTS.—The term ‘excess costs’
8 means those costs that are in excess of the average
9 annual per-student expenditure in a local edu-
10 cational agency during the preceding school year for
11 an elementary or secondary school student, as may
12 be appropriate, and which shall be computed after
13 deducting—

14 “(A) amounts received—

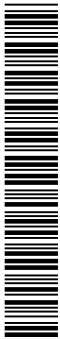
15 “(i) under part B of this title;

16 “(ii) under part A of title I of the El-
17 ementary and Secondary Education Act of
18 1965; and

19 “(iii) under title III of that Act; and

20 “(B) any State or local funds expended for
21 programs that would qualify for assistance
22 under any of the provisions of law described in
23 subparagraph (A).

24 “(8) FREE APPROPRIATE PUBLIC EDU-
25 CATION.—The term ‘free appropriate public edu-



1 cation' means special education and related services
2 that—

3 “(A) have been provided at public expense,
4 under public supervision and direction, and
5 without charge;

6 “(B) meet the standards of the State edu-
7 cational agency;

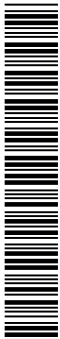
8 “(C) include an appropriate preschool, ele-
9 mentary, or secondary school education in the
10 State involved; and

11 “(D) are provided in conformity with the
12 individualized education program required
13 under section 614(d).

14 “(9) HIGHLY QUALIFIED.—The term ‘highly
15 qualified’ has the same meaning as that term in sec-
16 tion 9101 of the Elementary and Secondary Edu-
17 cation Act of 1965.

18 “(10) INDIAN.—The term ‘Indian’ means an in-
19 dividual who is a member of an Indian tribe.

20 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
21 means any Federal or State Indian tribe, band,
22 rancheria, pueblo, colony, or community, including
23 any Alaska Native village or regional village corpora-
24 tion (as defined in or established under the Alaska
25 Native Claims Settlement Act).



1 “(12) INDIVIDUALIZED EDUCATION PRO-
2 GRAM.—The term ‘individualized education program’
3 or ‘IEP’ means a written statement for each child
4 with a disability that is developed, reviewed, and re-
5 vised in accordance with section 614(d).

6 “(13) INDIVIDUALIZED FAMILY SERVICE
7 PLAN.—The term ‘individualized family service plan’
8 has the meaning given such term in section 636.

9 “(14) INFANT OR TODDLER WITH A DIS-
10 ABILITY.—The term ‘infant or toddler with a dis-
11 ability’ has the meaning given such term in section
12 632.

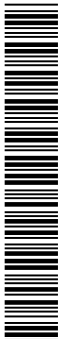
13 “(15) INSTITUTION OF HIGHER EDUCATION.—
14 The term ‘institution of higher education’—

15 “(A) has the meaning given that term in
16 subsection (a) or (b) of section 101 of the
17 Higher Education Act of 1965; and

18 “(B) also includes any community college
19 receiving funding from the Secretary of the In-
20 terior under the Tribally Controlled Community
21 College Assistance Act of 1978.

22 “(16) LOCAL EDUCATIONAL AGENCY.—

23 “(A) The term ‘local educational agency’
24 means a public board of education or other pub-
25 lic authority legally constituted within a State



1 for either administrative control or direction of,
2 or to perform a service function for, public ele-
3 mentary or secondary schools in a city, county,
4 township, school district, or other political sub-
5 division of a State, or for such combination of
6 school districts or counties as are recognized in
7 a State as an administrative agency for its pub-
8 lic elementary or secondary schools.

9 “(B) The term includes—

10 “(i) an educational service agency, as
11 defined in paragraph (4); and

12 “(ii) any other public institution or
13 agency having administrative control and
14 direction of a public elementary or sec-
15 ondary school.

16 “(C) The term includes an elementary or
17 secondary school funded by the Bureau of In-
18 dian Affairs, but only to the extent that such
19 inclusion makes the school eligible for programs
20 for which specific eligibility is not provided to
21 the school in another provision of law and the
22 school does not have a student population that
23 is smaller than the student population of the
24 local educational agency receiving assistance
25 under this Act with the smallest student popu-



1 lation, except that the school shall not be sub-
2 ject to the jurisdiction of any State educational
3 agency other than the Bureau of Indian Affairs.

4 “(17) NATIVE LANGUAGE.—The term ‘native
5 language’, when used with reference to an individual
6 of limited English proficiency, means the language
7 normally used by the individual, or in the case of a
8 child, the language normally used by the parents of
9 the child.

10 “(18) NONPROFIT.—The term ‘nonprofit’, as
11 applied to a school, agency, organization, or institu-
12 tion, means a school, agency, organization, or insti-
13 tution owned and operated by one or more nonprofit
14 corporations or associations no part of the net earn-
15 ings of which inures, or may lawfully inure, to the
16 benefit of any private shareholder or individual.

17 “(19) OUTLYING AREA.—The term ‘outlying
18 area’ means the United States Virgin Islands,
19 Guam, American Samoa, and the Commonwealth of
20 the Northern Mariana Islands.

21 “(20) PARENT.—The term ‘parent’—

22 “(A) includes a legal guardian; and

23 “(B) except as used in sections 615(b)(2)
24 and 639(a)(5), includes an individual assigned



1 under either of those sections to be a surrogate
2 parent.

3 “(21) PARENT ORGANIZATION.—The term ‘par-
4 ent organization’ has the meaning given that term in
5 section 672(g).

6 “(22) PARENT AND COMMUNITY TRAINING AND
7 INFORMATION CENTER.—The term ‘parent and com-
8 munity training and information center’ means a
9 center assisted under section 672.

10 “(23) RELATED SERVICES.—The term ‘related
11 services’ means transportation, and such develop-
12 mental, corrective, and other supportive services (in-
13 cluding speech-language pathology and audiology
14 services, psychological services, physical and occupa-
15 tional therapy, recreation, including therapeutic
16 recreation, social work services, counseling services,
17 including rehabilitation counseling, orientation and
18 mobility services, and medical services, except that
19 such medical services shall be for diagnostic and
20 evaluation purposes only) as may be required to as-
21 sist a child with a disability to benefit from special
22 education, and includes the early identification and
23 assessment of disabling conditions in children.

24 “(24) SECONDARY SCHOOL.—The term ‘sec-
25 ondary school’ means a nonprofit institutional day or



1 residential school that provides secondary education,
2 as determined under State law, except that it does
3 not include any education beyond grade 12.

4 “(25) SECRETARY.—The term ‘Secretary’
5 means the Secretary of Education.

6 “(26) SPECIAL EDUCATION.—The term ‘special
7 education’ means specially designed instruction, at
8 no cost to parents, to meet the unique needs of a
9 child with a disability, including—

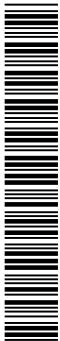
10 “(A) instruction conducted in the class-
11 room, in the home, in hospitals and institutions,
12 and in other settings; and

13 “(B) instruction in physical education.

14 “(27) SPECIFIC LEARNING DISABILITY.—

15 “(A) IN GENERAL.—The term ‘specific
16 learning disability’ means a disorder in one or
17 more of the basic psychological processes in-
18 volved in understanding or in using language,
19 spoken or written, which disorder may manifest
20 itself in imperfect ability to listen, think, speak,
21 read, write, spell, or do mathematical calcula-
22 tions.

23 “(B) DISORDERS INCLUDED.—Such term
24 includes such conditions as perceptual disabil-



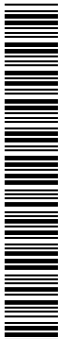
1 ities, brain injury, minimal brain dysfunction,
2 dyslexia, and developmental aphasia.

3 “(C) DISORDERS NOT INCLUDED.—Such
4 term does not include a learning problem that
5 is primarily the result of visual, hearing, or
6 motor disabilities, of mental retardation, of
7 emotional disturbance, or of environmental, cul-
8 tural, or economic disadvantage.

9 “(28) STATE.—The term ‘State’ means each of
10 the 50 States, the District of Columbia, the Com-
11 monwealth of Puerto Rico, and each of the outlying
12 areas.

13 “(29) STATE EDUCATIONAL AGENCY.—The
14 term ‘State educational agency’ means the State
15 board of education or other agency or officer pri-
16 marily responsible for the State supervision of public
17 elementary and secondary schools, or, if there is no
18 such officer or agency, an officer or agency des-
19 ignated by the Governor or by State law.

20 “(30) SUPPLEMENTARY AIDS AND SERVICES.—
21 The term ‘supplementary aids and services’ means
22 aids, services, and other supports that are provided
23 in regular education classes or other education-re-
24 lated settings to enable children with disabilities to
25 be educated with nondisabled children to the max-



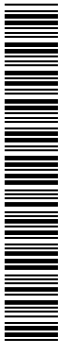
1 imum extent appropriate in accordance with section
2 612(a)(5).

3 “(31) TRANSITION SERVICES.—The term ‘tran-
4 sition services’ means a coordinated set of activities
5 for a child with a disability that—

6 “(A) is designed within a results-oriented
7 process, that is focused on improving the aca-
8 demic and developmental achievement of the
9 child with a disability to facilitate the child’s
10 move from school to post-school activities, in-
11 cluding post-secondary education, vocational
12 training, integrated employment (including sup-
13 ported employment), continuing and adult edu-
14 cation, adult services, independent living, or
15 community participation;

16 “(B) is based upon the individual child’s
17 needs, taking into account the child’s skills,
18 preferences, and interests; and

19 “(C) includes instruction, related services,
20 community experiences, the development of em-
21 ployment and other post-school adult living ob-
22 jectives, and, when appropriate, acquisition of
23 daily living skills and functional vocational eval-
24 uation.



1 **“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

2 “(a) ESTABLISHMENT.—There shall be, within the
3 Office of Special Education and Rehabilitative Services in
4 the Department of Education, an Office of Special Edu-
5 cation Programs, which shall be the principal agency in
6 such Department for administering and carrying out this
7 Act and other programs and activities concerning the edu-
8 cation of children with disabilities.

9 “(b) DIRECTOR.—The Office established under sub-
10 section (a) shall be headed by a Director who shall be se-
11 lected by the Secretary and shall report directly to the As-
12 sistant Secretary for Special Education and Rehabilitative
13 Services.

14 “(c) VOLUNTARY AND UNCOMPENSATED SERV-
15 ICES.—Notwithstanding section 1342 of title 31, United
16 States Code, the Secretary is authorized to accept vol-
17 untary and uncompensated services in furtherance of the
18 purposes of this Act.”.

19 **SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS**
20 **WITH DISABILITIES EDUCATION ACT.**

21 Sections 605 through 607 of the Individuals with
22 Disabilities Education Act (20 U.S.C. 1404–1406) are
23 amended to read as follows:



1 **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**
2 **OR ALTERATION OF FACILITIES.**

3 “(a) IN GENERAL.—If the Secretary determines that
4 a program authorized under this Act would be improved
5 by permitting program funds to be used to acquire appro-
6 priate equipment, or to construct new facilities or alter
7 existing facilities, the Secretary is authorized to allow the
8 use of those funds for those purposes.

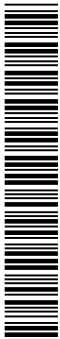
9 “(b) COMPLIANCE WITH CERTAIN REGULATIONS.—
10 Any construction of new facilities or alteration of existing
11 facilities under subsection (a) shall comply with the re-
12 quirements of—

13 “(1) appendix A of part 36 of title 28, Code of
14 Federal Regulations (commonly known as the
15 ‘Americans with Disabilities Accessibility Guidelines
16 for Buildings and Facilities’); or

17 “(2) appendix A of part 101-19.6 of title 41,
18 Code of Federal Regulations (commonly known as
19 the ‘Uniform Federal Accessibility Standards’).

20 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**
21 **ITIES.**

22 “The Secretary shall ensure that each recipient of as-
23 sistance under this Act makes positive efforts to employ
24 and advance in employment qualified individuals with dis-
25 abilities, particularly as teachers, related services per-



1 sonnel, early intervention providers, and administrators,
2 in programs assisted under this Act.

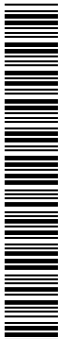
3 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
4 **TIONS.**

5 “(a) IN GENERAL.—The Secretary may issue regula-
6 tions under this Act only to the extent that such regula-
7 tions are reasonably necessary to ensure that there is com-
8 pliance with the specific requirements of this Act.

9 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
10 Secretary may not implement, or publish in final form,
11 any regulation prescribed pursuant to this Act that
12 would—

13 “(1) violate or contradict any provision of this
14 Act; and

15 “(2) procedurally or substantively lessen the
16 protections provided to children with disabilities
17 under this Act, as embodied in regulations in effect
18 on July 20, 1983 (particularly as such protections
19 relate to parental consent to initial evaluation or ini-
20 tial placement in special education, least restrictive
21 environment, related services, timelines, attendance
22 of evaluation personnel at individualized education
23 program meetings, or qualifications of personnel),
24 except to the extent that such regulation reflects the



1 clear and unequivocal intent of the Congress in legis-
2 lation.

3 “(c) PUBLIC COMMENT PERIOD.—The Secretary
4 shall provide a public comment period of at least 60 days
5 on any regulation proposed under part B or part C of this
6 Act on which an opportunity for public comment is other-
7 wise required by law.

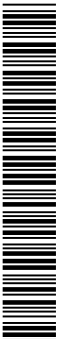
8 “(d) POLICY LETTERS AND STATEMENTS.—The Sec-
9 retary may not issue policy letters or other statements (in-
10 cluding on issues of national significance) that—

11 “(1) would violate or contradict any provision of
12 this Act; or

13 “(2) establish a rule that is required for compli-
14 ance with, and eligibility under, this Act without fol-
15 lowing the requirements of section 553 of title 5,
16 United States Code.

17 “(e) CORRESPONDENCE FROM DEPARTMENT OF
18 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
19 PART.—

20 “(1) IN GENERAL.—The Secretary shall, on a
21 quarterly basis, publish in the Federal Register, and
22 widely disseminate to interested entities through var-
23 ious additional forms of communication, a list of
24 correspondence from the Department of Education
25 received by individuals during the previous quarter



1 that describes the interpretations of the Department
2 of Education of this Act or the regulations imple-
3 mented pursuant to this Act.

4 “(2) ADDITIONAL INFORMATION.—For each
5 item of correspondence published in a list under
6 paragraph (1), the Secretary shall—

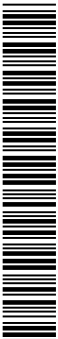
7 “(A) identify the topic addressed by the
8 correspondence and shall include such other
9 summary information as the Secretary deter-
10 mines to be appropriate; and

11 “(B) ensure that all such correspondence
12 is issued, where applicable, in compliance with
13 section 553 of title 5, United States Code.

14 “(f) EXPLANATION AND ASSURANCES.—Any written
15 response by the Secretary under subsection (e) regarding
16 a policy, question, or interpretation under this Act shall
17 include an explanation in the written response that the
18 response—

19 “(1) is issued, when required, in compliance
20 with the requirements of section 553 of title 5,
21 United States Code; and

22 “(2) is provided as informal guidance and rep-
23 resents only the interpretation by the Department of
24 Education of the applicable statutory or regulatory



1 requirements in the context of the specific facts pre-
2 sented in the original question.”.

3 **SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABIL-**
4 **ITIES EDUCATION ACT.**

5 Part A of the Individuals with Disabilities Education
6 Act (20 U.S.C. 1400 et seq.) is amended by adding at
7 the end the following:

8 **“SEC. 608. STATE ADMINISTRATION.**

9 “(a) RULEMAKING.—Each State that receives funds
10 under this Act shall—

11 “(1) ensure that any State rules, regulations,
12 and policies relating to this Act conform to the pur-
13 poses of this Act; and

14 “(2) minimize the number of rules, regulations,
15 and policies to which the State’s local educational
16 agencies and schools are subject to under this Act.

17 “(b) SUPPORT AND FACILITATION.—All State rules,
18 regulations, and policies relating to this Act shall support
19 and facilitate local educational agency and school-level sys-
20 temic reform designed to enable children with disabilities
21 to meet the challenging State student academic achieve-
22 ment standards.”.

23 **SEC. 104. GAO REVIEW; REPORT.**

24 (a) REVIEW.—The Comptroller General shall conduct
25 a review of all Federal requirements under the Individuals



1 with Disabilities Education Act, and the requirements of
2 a reasonable sample of State and local educational agen-
3 cies relating to such Act, to determine which requirements
4 result in excessive paperwork completion burdens for
5 teachers, related services providers, and school administra-
6 tors.

7 (b) REPORT.—Not later than 2 years after the date
8 of the enactment of this Act, the Comptroller General shall
9 prepare and submit to Congress a report that contains the
10 results of the review under subsection (a).

11 **TITLE II—ASSISTANCE FOR EDU-**
12 **CATION OF ALL CHILDREN**
13 **WITH DISABILITIES**

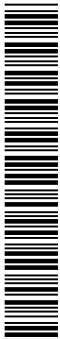
14 **SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
15 **AUTHORIZATION OF APPROPRIATIONS.**

16 Section 611 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1411) is amended to read as follows:

18 **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
19 **AUTHORIZATION OF APPROPRIATIONS.**

20 “(a) GRANTS TO STATES.—

21 “(1) PURPOSE OF GRANTS.—The Secretary
22 shall make grants to States and the outlying areas,
23 and provide funds to the Secretary of the Interior,
24 to assist them to provide special education and re-



1 lated services to children with disabilities in accord-
2 ance with this part.

3 “(2) MAXIMUM AMOUNTS.—The maximum
4 amount of the grant a State may receive under this
5 section for any fiscal year is—

6 “(A) the number of children with disabil-
7 ities in the State who are receiving special edu-
8 cation and related services—

9 “(i) aged 3 through 5 if the State is
10 eligible for a grant under section 619; and

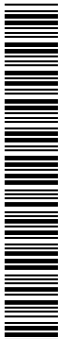
11 “(ii) aged 6 through 21; multiplied by

12 “(B) 40 percent of the average per-pupil
13 expenditure in public elementary and secondary
14 schools in the United States.

15 “(3) LIMITATION.—Notwithstanding subpara-
16 graphs (A) and (B) of paragraph (2), the maximum
17 amount of the grant a State may receive under this
18 section for a fiscal year may not be based on the
19 number of children ages 3 through 17, inclusive, in
20 excess of 12 percent of the number of all children
21 in that age range in the State.

22 “(b) OUTLYING AREAS.—

23 “(1) FUNDS RESERVED.—From the amount ap-
24 propriated for any fiscal year under subsection (i),
25 the Secretary shall reserve not more than one per-



1 cent, which shall be used to provide assistance to the
2 outlying areas in accordance with their respective
3 populations of individuals aged 3 through 21.

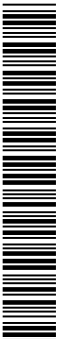
4 “(2) SPECIAL RULE.—The provisions of Public
5 Law 95–134, permitting the consolidation of grants
6 by the outlying areas, shall not apply to funds pro-
7 vided to those areas under this section.

8 “(c) SECRETARY OF THE INTERIOR.—From the
9 amount appropriated for any fiscal year under subsection
10 (i), the Secretary shall reserve 1.226 percent to provide
11 assistance to the Secretary of the Interior in accordance
12 with subsection (h).

13 “(d) ALLOCATIONS TO STATES.—

14 “(1) IN GENERAL.—After reserving funds for
15 payments to the outlying areas and the Secretary of
16 the Interior under subsections (b) and (c), the Sec-
17 retary shall allocate the remaining amount among
18 the States in accordance with this subsection.

19 “(2) SPECIAL RULE FOR USE OF FISCAL YEAR
20 1999 AMOUNT.—If a State does not make a free ap-
21 propriate public education available to all children
22 with disabilities aged 3 through 5 in the State in
23 any fiscal year, the Secretary shall compute the
24 State’s amount for fiscal year 1999, solely for the
25 purpose of calculating the State’s allocation in the



1 subsequent year under paragraph (3) or (4), by sub-
2 tracting the amount allocated to the State for fiscal
3 year 1999 on the basis of those children.

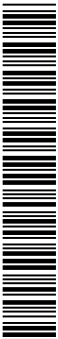
4 “(3) INCREASE IN FUNDS.—If the amount
5 available for allocations to States under paragraph
6 (1) is greater than the amount allocated to the
7 States under this paragraph for the preceding fiscal
8 year, those allocations shall be calculated as follows:

9 “(A)(i) Except as provided in subpara-
10 graph (B), the Secretary shall allocate—

11 “(I) to each State the amount it re-
12 ceived for fiscal year 1999;

13 “(II) 85 percent of any remaining
14 funds to States on the basis of their rel-
15 ative populations of children aged 3
16 through 21 who are of the same age as
17 children with disabilities for whom the
18 State ensures the availability of a free ap-
19 propriate public education under this part;
20 and

21 “(III) 15 percent of those remaining
22 funds to States on the basis of their rel-
23 ative populations of children described in
24 subclause (II) who are living in poverty.



1 “(ii) For the purpose of making grants
2 under this paragraph, the Secretary shall use
3 the most recent population data, including data
4 on children living in poverty, that are available
5 and satisfactory to the Secretary.

6 “(B) Notwithstanding subparagraph (A), allo-
7 cations under this paragraph shall be subject to the
8 following:

9 “(i) No State’s allocation shall be less
10 than its allocation for the preceding fiscal
11 year.

12 “(ii) No State’s allocation shall be less
13 than the greatest of—

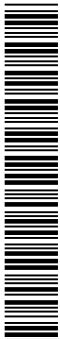
14 “(I) the sum of—

15 “(aa) the amount it received
16 for fiscal year 1999; and

17 “(bb) one third of one per-
18 cent of the amount by which the
19 amount appropriated under sub-
20 section (j) exceeds the amount
21 appropriated under this section
22 for fiscal year 1999;

23 “(II) the sum of—

24 “(aa) the amount it received
25 for the preceding fiscal year; and



1 “(bb) that amount multi-
2 plied by the percentage by which
3 the increase in the funds appro-
4 priated from the preceding fiscal
5 year exceeds 1.5 percent; or

6 “(III) the sum of—

7 “(aa) the amount it received
8 for the preceding fiscal year; and

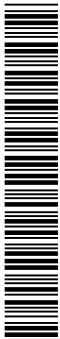
9 “(bb) that amount multi-
10 plied by 90 percent of the per-
11 centage increase in the amount
12 appropriated from the preceding
13 fiscal year.

14 “(iii) Notwithstanding clause (ii), no
15 State’s allocation under this paragraph
16 shall exceed the sum of—

17 “(I) the amount it received for
18 the preceding fiscal year; and

19 “(II) that amount multiplied by
20 the sum of 1.5 percent and the per-
21 centage increase in the amount appro-
22 priated.

23 “(C) If the amount available for allocations
24 under this paragraph is insufficient to pay
25 those allocations in full, those allocations shall



1 be ratably reduced, subject to subparagraph
2 (B)(i).

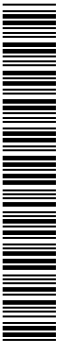
3 “(4) DECREASE IN FUNDS.—If the amount
4 available for allocations to States under paragraph
5 (1) is less than the amount allocated to the States
6 under this section for the preceding fiscal year, those
7 allocations shall be calculated as follows:

8 “(A) If the amount available for allocations
9 is greater than the amount allocated to the
10 States for fiscal year 1999, each State shall be
11 allocated the sum of—

12 (i) the amount it received for fiscal
13 year 1999; and

14 (ii) an amount that bears the same re-
15 lation to any remaining funds as the in-
16 crease the State received for the preceding
17 fiscal year over fiscal year 1999 bears to
18 the total of all such increases for all
19 States.

20 “(B)(i) If the amount available for alloca-
21 tions is equal to or less than the amount allo-
22 cated to the States for fiscal year 1999, each
23 State shall be allocated the amount it received
24 for fiscal year 1999.



1 “(ii) If the amount available is insufficient
2 to make the allocations described in clause (i),
3 those allocations shall be ratably reduced.

4 “(e) STATE-LEVEL ACTIVITIES.—

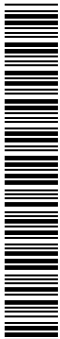
5 “(1) IN GENERAL.—

6 “(A) Each State may retain not more than
7 the amount described in subparagraph (B) for
8 administration and other State-level activities in
9 accordance with paragraphs (2) and (3).

10 “(B) For each fiscal year, the Secretary
11 shall determine and report to the State edu-
12 cational agency an amount that is 25 percent of
13 the amount the State received under this sec-
14 tion for fiscal year 1997, cumulatively adjusted
15 by the Secretary for each succeeding fiscal year
16 by the lesser of—

17 “(i) the percentage increase, if any,
18 from the preceding fiscal year in the
19 State’s allocation under this section; or

20 “(ii) the rate of inflation, as measured
21 by the percentage increase, if any, from
22 the preceding fiscal year in the Consumer
23 Price Index For All Urban Consumers,
24 published by the Bureau of Labor Statis-
25 tics of the Department of Labor.



1 “(C) A State may use funds it retains
2 under subparagraph (A) without regard to—

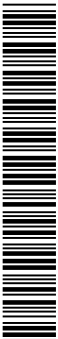
3 “(i) the prohibition on commingling of
4 funds in section 612(a)(18)(B); and

5 “(ii) the prohibition on supplanting
6 other funds in section 612(a)(18)(C).

7 “(2) STATE ADMINISTRATION.—

8 “(A) For the purpose of administering this
9 part, including section 619 (including the co-
10 ordination of activities under this part with,
11 and providing technical assistance to, other pro-
12 grams that provide services to children with dis-
13 abilities)—

14 “(i) each State may use not more
15 than twenty percent of the maximum
16 amount it may retain under paragraph
17 (1)(A) for any fiscal year or \$500,000 (ad-
18 justed by the cumulative rate of inflation
19 since fiscal year 1998, as measured by the
20 percentage increase, if any, in the Con-
21 sumer Price Index For All Urban Con-
22 sumers, published by the Bureau of Labor
23 Statistics of the Department of Labor),
24 whichever is greater; and



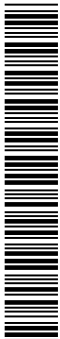
1 “(ii) each outlying area may use up to
2 five percent of the amount it receives
3 under this section for any fiscal year or
4 \$35,000 (adjusted by the cumulative rate
5 of inflation since fiscal year 1998, as meas-
6 ured by the percentage increase, if any, in
7 the Consumer Price Index For All Urban
8 Consumers, published by the Bureau of
9 Labor Statistics of the Department of
10 Labor), whichever is greater.

11 “(B) Funds described in subparagraph (A)
12 may also be used for the administration of part
13 C of this Act, if the State educational agency
14 is the lead agency for the State under that
15 part.

16 “(3) OTHER STATE-LEVEL ACTIVITIES.—Each
17 State shall use any funds it retains under paragraph
18 (1) and does not use for administration under para-
19 graph (2) for any of the following:

20 “(A) Support and direct services, including
21 technical assistance and personnel development
22 and training.

23 “(B) Administrative costs of monitoring
24 and complaint investigation.



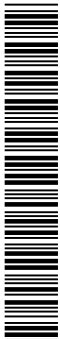
1 “(C) To establish and implement the medi-
2 ation and voluntary binding arbitration proc-
3 esses required by section 612(a)(17) and
4 615(e), including providing for the costs of me-
5 diators, arbitrators, and support personnel.

6 “(D) To assist local educational agencies
7 in meeting personnel shortages.

8 “(E) Activities at the State and local levels
9 to meet the performance goals established by
10 the State under section 612(a)(15) and to sup-
11 port implementation of the State plan under
12 subpart 1 of part D if the State receives funds
13 under that subpart.

14 “(F) To support paperwork reduction ac-
15 tivities, including expanding the appropriate use
16 of technology in the IEP process under this
17 part.

18 “(G) To develop and maintain a com-
19 prehensive, coordinated, prereferral educational
20 support system for students in kindergarten
21 through grade 12 (with a particular emphasis
22 on students in kindergarten through grade 3)
23 who are not enrolled in special education but
24 who need additional academic and behavioral



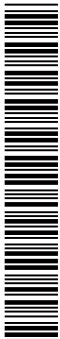
1 support to succeed in a general education envi-
2 ronment.

3 “(H) To support capacity building activi-
4 ties and improve the delivery of services by local
5 educational agencies to improve results for chil-
6 dren with disabilities.

7 “(I) To establish and implement cost or
8 risk sharing funds, consortia, or cooperatives to
9 assist local educational agencies in providing
10 high cost special education and related services.

11 “(J) For subgrants to local educational
12 agencies for the purposes described in para-
13 graph (4)(A).

14 “(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL
15 AGENCIES FOR ACCOUNTABILITY.—In any fiscal year
16 in which the percentage increase in the State’s allo-
17 cation under this section exceeds the rate of inflation
18 (as measured by the percentage increase, if any,
19 from the preceding fiscal year in the Consumer Price
20 Index For All Urban Consumers, published by the
21 Bureau of Labor Statistics of the Department of
22 Labor), each State shall reserve, from its allocation
23 under this section, the amount described in subpara-
24 graph (B) to make subgrants to local educational
25 agencies, unless that amount is less than \$100,000,



1 to provide technical assistance and direct services to
2 local educational agencies identified as being in need
3 of improvement under section 1116 of the Elemen-
4 tary and Secondary Education Act of 1965 on the
5 basis, in whole or in part, of the assessment results
6 of the disaggregated subgroup of students with dis-
7 abilities, including providing professional develop-
8 ment to special and regular education teachers,
9 based on scientifically based research to improve
10 educational instruction.

11 “(B) MAXIMUM SUBGRANT.—For each fiscal
12 year, the amount referred to in subparagraph (A)
13 is—

14 “(i) the maximum amount the State was
15 allowed to retain under paragraph (1)(A) for
16 the prior fiscal year, or for fiscal year 1998, 25
17 percent of the State’s allocation for fiscal year
18 1997 under this section; multiplied by

19 “(ii) the difference between the percentage
20 increase in the State’s allocation under this sec-
21 tion and the rate of inflation, as measured by
22 the percentage increase, if any, from the pre-
23 ceding fiscal year in the Consumer Price Index
24 For All Urban Consumers, published by the



1 Bureau of Labor Statistics of the Department
2 of Labor.

3 “(5) REPORT ON USE OF FUNDS.—As part of
4 the information required to be submitted to the Sec-
5 retary under section 612, each State shall annually
6 describe—

7 “(A) how amounts retained under para-
8 graph (1) will be used to meet the requirements
9 of this part;

10 “(B) how those amounts will be allocated
11 among the activities described in this subsection
12 to meet State priorities based on input from
13 local educational agencies; and

14 “(C) the percentage of those amounts, if
15 any, that will be distributed to local educational
16 agencies by formula.

17 “(f) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
18 CIES.—

19 “(1) SUBGRANTS REQUIRED.—Each State that
20 receives a grant under this section for any fiscal
21 year shall distribute any funds it does not retain
22 under subsection (e) to local educational agencies,
23 including public charter schools that operate as local
24 educational agencies, in the State that have estab-



1 lished their eligibility under section 613, for use in
2 accordance with this part.

3 “(2) PROCEDURE FOR ALLOCATIONS TO LOCAL
4 EDUCATIONAL AGENCIES.—For each fiscal year for
5 which funds are allocated to States under subsection
6 (e), each State shall allocate funds under paragraph
7 (1) as follows:

8 “(A) BASE PAYMENTS.—The State shall
9 first award each agency described in paragraph
10 (1) the amount that agency would have received
11 under this section for fiscal year 1999, if the
12 State had distributed 75 percent of its grant for
13 that year under section 611(d), as then in ef-
14 fect.

15 “(B) ALLOCATION OF REMAINING
16 FUNDS.—After making allocations under sub-
17 paragraph (A), the State shall—

18 “(i) allocate 85 percent of any re-
19 maining funds to those agencies on the
20 basis of the relative numbers of children
21 enrolled in public and private elementary
22 and secondary schools within the agency’s
23 jurisdiction; and

24 “(ii) allocate 15 percent of those re-
25 maining funds to those agencies in accord-



1 ance with their relative numbers of chil-
2 dren living in poverty, as determined by
3 the State educational agency.

4 “(3) REALLOCATION OF FUNDS.—If a State
5 educational agency determines that a local edu-
6 cational agency is adequately providing a free appro-
7 priate public education to all children with disabil-
8 ities residing in the area served by that agency with
9 State and local funds, the State educational agency
10 may reallocate any portion of the funds under this
11 part that are not needed by that local agency to pro-
12 vide a free appropriate public education to other
13 local educational agencies in the State that are not
14 adequately providing special education and related
15 services to all children with disabilities residing in
16 the areas they serve.

17 “(g) DEFINITIONS.—For the purpose of this
18 section—

19 “(1) the term ‘average per-pupil expenditure in
20 public elementary and secondary schools in the
21 United States’ means—

22 “(A) without regard to the source of
23 funds—

24 “(i) the aggregate current expendi-
25 tures, during the second fiscal year pre-



1 ceding the fiscal year for which the deter-
2 mination is made (or, if satisfactory data
3 for that year are not available, during the
4 most recent preceding fiscal year for which
5 satisfactory data are available) of all local
6 educational agencies in the 50 States and
7 the District of Columbia); plus

8 “(ii) any direct expenditures by the
9 State for the operation of those agencies;
10 divided by

11 “(B) the aggregate number of children in
12 average daily attendance to whom those agen-
13 cies provided free public education during that
14 preceding year; and

15 “(2) the term ‘State’ means each of the 50
16 States, the District of Columbia, and the Common-
17 wealth of Puerto Rico.

18 “(h) USE OF AMOUNTS BY SECRETARY OF THE IN-
19 TERIOR.—

20 “(1) PROVISION OF AMOUNTS FOR ASSIST-
21 ANCE.—

22 “(A) IN GENERAL.—The Secretary of Edu-
23 cation shall provide amounts to the Secretary of
24 the Interior to meet the need for assistance for
25 the education of children with disabilities on



1 reservations aged 5 to 21, inclusive, enrolled in
2 elementary and secondary schools for Indian
3 children operated or funded by the Secretary of
4 the Interior. The amount of such payment for
5 any fiscal year shall be equal to 80 percent of
6 the amount allotted under subsection (c) for
7 that fiscal year. Of the amount described in the
8 preceding sentence—

9 “(i) 80 percent shall be allocated to
10 such schools by July 1 of that fiscal year;
11 and

12 “(ii) 20 percent shall be allocated to
13 such schools by September 30 of that fiscal
14 year.

15 “(B) CALCULATION OF NUMBER OF CHIL-
16 DREN.—In the case of Indian students aged 3
17 to 5, inclusive, who are enrolled in programs af-
18 filiated with the Bureau of Indian Affairs (here-
19 after in this subsection referred to as ‘BIA’)
20 schools and that are required by the States in
21 which such schools are located to attain or
22 maintain State accreditation, and which schools
23 have such accreditation prior to the date of en-
24 actment of the Individuals with Disabilities
25 Education Act Amendments of 1991, the school



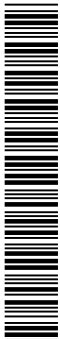
1 shall be allowed to count those children for the
2 purpose of distribution of the funds provided
3 under this paragraph to the Secretary of the
4 Interior. The Secretary of the Interior shall be
5 responsible for meeting all of the requirements
6 of this part for these children, in accordance
7 with paragraph (2).

8 “(C) ADDITIONAL REQUIREMENT.—With
9 respect to all other children aged 3 to 21, inclu-
10 sive, on reservations, the State educational
11 agency shall be responsible for ensuring that all
12 of the requirements of this part are imple-
13 mented.

14 “(2) SUBMISSION OF INFORMATION.—The Sec-
15 retary of Education may provide the Secretary of
16 the Interior amounts under paragraph (1) for a fis-
17 cal year only if the Secretary of the Interior submits
18 to the Secretary of Education information that—

19 “(A) demonstrates that the Department of
20 the Interior meets the appropriate require-
21 ments, as determined by the Secretary of Edu-
22 cation, of sections 612 (including monitoring
23 and evaluation activities) and 613;

24 “(B) includes a description of how the Sec-
25 retary of the Interior will coordinate the provi-

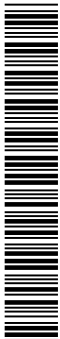


1 sion of services under this part with local edu-
2 cational agencies, tribes and tribal organiza-
3 tions, and other private and Federal service
4 providers;

5 “(C) includes an assurance that there are
6 public hearings, adequate notice of such hear-
7 ings, and an opportunity for comment afforded
8 to members of tribes, tribal governing bodies,
9 and affected local school boards before the
10 adoption of the policies, programs, and proce-
11 dures described in subparagraph (A);

12 “(D) includes an assurance that the Sec-
13 retary of the Interior will provide such informa-
14 tion as the Secretary of Education may require
15 to comply with section 618;

16 “(E) includes an assurance that the Sec-
17 retary of the Interior and the Secretary of
18 Health and Human Services have entered into
19 a memorandum of agreement, to be provided to
20 the Secretary of Education, for the coordination
21 of services, resources, and personnel between
22 their respective Federal, State, and local offices
23 and with State and local educational agencies
24 and other entities to facilitate the provision of
25 services to Indian children with disabilities re-



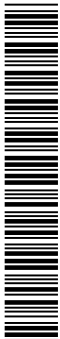
1 siding on or near reservations (such agreement
2 shall provide for the apportionment of respon-
3 sibilities and costs including, but not limited to,
4 child find, evaluation, diagnosis, remediation or
5 therapeutic measures, and (where appropriate)
6 equipment and medical or personal supplies as
7 needed for a child to remain in school or a pro-
8 gram); and

9 “(F) includes an assurance that the De-
10 partment of the Interior will cooperate with the
11 Department of Education in its exercise of
12 monitoring, enforcement, and oversight of this
13 application, and any agreements entered into
14 between the Secretary of the Interior and other
15 entities under this part, and will fulfill its du-
16 ties under this part.

17 Section 616(a) shall apply to the information de-
18 scribed in this paragraph.

19 “(3) PAYMENTS FOR EDUCATION AND SERVICES
20 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3
21 THROUGH 5.—

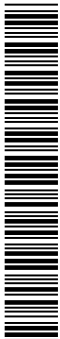
22 “(A) IN GENERAL.—With funds appro-
23 priated under subsection (j), the Secretary of
24 Education shall make payments to the Sec-
25 retary of the Interior to be distributed to tribes



1 or tribal organizations (as defined under section
2 4 of the Indian Self-Determination and Edu-
3 cation Assistance Act) or consortia of the above
4 to provide for the coordination of assistance for
5 special education and related services for chil-
6 dren with disabilities aged 3 through 5 on res-
7 ervations served by elementary and secondary
8 schools for Indian children operated or funded
9 by the Department of the Interior. The amount
10 of such payments under subparagraph (B) for
11 any fiscal year shall be equal to 20 percent of
12 the amount allotted under subsection (c).

13 “(B) DISTRIBUTION OF FUNDS.—The Sec-
14 retary of the Interior shall distribute the total
15 amount of the payment under subparagraph
16 (A) by allocating to each tribe or tribal organi-
17 zation an amount based on the number of chil-
18 dren with disabilities ages 3 through 5 residing
19 on reservations as reported annually, divided by
20 the total of those children served by all tribes
21 or tribal organizations.

22 “(C) SUBMISSION OF INFORMATION.—To
23 receive a payment under this paragraph, the
24 tribe or tribal organization shall submit such
25 figures to the Secretary of the Interior as re-



1 quired to determine the amounts to be allocated
2 under subparagraph (B). This information shall
3 be compiled and submitted to the Secretary of
4 Education.

5 “(D) USE OF FUNDS.—The funds received
6 by a tribe or tribal organization shall be used
7 to assist in child find, screening, and other pro-
8 cedures for the early identification of children
9 aged 3 through 5, parent training, and the pro-
10 vision of direct services. These activities may be
11 carried out directly or through contracts or co-
12 operative agreements with the BIA, local edu-
13 cational agencies, and other public or private
14 nonprofit organizations. The tribe or tribal or-
15 ganization is encouraged to involve Indian par-
16 ents in the development and implementation of
17 these activities. The above entities shall, as ap-
18 propriate, make referrals to local, State, or
19 Federal entities for the provision of services or
20 further diagnosis.

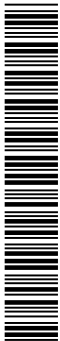
21 “(E) ANNUAL REPORT.—To be eligible to
22 receive a grant pursuant to subparagraph (A),
23 the tribe or tribal organization shall provide to
24 the Secretary of the Interior an annual report
25 of activities undertaken under this paragraph,



1 including the number of contracts and coopera-
2 tive agreements entered into, the number of
3 children contacted and receiving services for
4 each year, and the estimated number of chil-
5 dren needing services during the year following
6 the one in which the report is made. The Sec-
7 retary of the Interior shall include a summary
8 of this information on an annual basis in the
9 report to the Secretary of Education required
10 under this subsection. The Secretary of Edu-
11 cation may require any additional information
12 from the Secretary of the Interior.

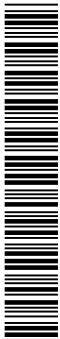
13 “(F) PROHIBITIONS.—None of the funds
14 allocated under this paragraph may be used by
15 the Secretary of the Interior for administrative
16 purposes, including child count and the provi-
17 sion of technical assistance.

18 “(4) PLAN FOR COORDINATION OF SERVICES.—
19 The Secretary of the Interior shall develop and im-
20 plement a plan for the coordination of services for
21 all Indian children with disabilities residing on res-
22 ervations covered under this Act. Such plan shall
23 provide for the coordination of services benefiting
24 these children from whatever source, including
25 tribes, the Indian Health Service, other BIA divi-



1 sions, and other Federal agencies. In developing the
2 plan, the Secretary of the Interior shall consult with
3 all interested and involved parties. It shall be based
4 on the needs of the children and the system best
5 suited for meeting those needs, and may involve the
6 establishment of cooperative agreements between the
7 BIA, other Federal agencies, and other entities. The
8 plan shall also be distributed upon request to States,
9 State and local educational agencies, and other
10 agencies providing services to infants, toddlers, and
11 children with disabilities, to tribes, and to other in-
12 terested parties.

13 “(5) ESTABLISHMENT OF ADVISORY BOARD.—
14 To meet the requirements of section 612(a)(22), the
15 Secretary of the Interior shall establish, under the
16 BIA, an advisory board composed of individuals in-
17 volved in or concerned with the education and provi-
18 sion of services to Indian infants, toddlers, children,
19 and youth with disabilities, including Indians with
20 disabilities, Indian parents or guardians of such chil-
21 dren, teachers, service providers, State and local
22 educational officials, representatives of tribes or trib-
23 al organizations, representatives from State Inter-
24 agency Coordinating Councils under section 641 in
25 States having reservations, and other members rep-



1 resenting the various divisions and entities of the
2 BIA. The chairperson shall be selected by the Sec-
3 retary of the Interior. The advisory board shall—

4 “(A) assist in the coordination of services
5 within the BIA and with other local, State, and
6 Federal agencies in the provision of education
7 for infants, toddlers, and children with disabil-
8 ities;

9 “(B) advise and assist the Secretary of the
10 Interior in the performance of the Secretary’s
11 responsibilities described in this subsection;

12 “(C) develop and recommend policies con-
13 cerning effective inter- and intra-agency collabo-
14 ration, including modifications to regulations,
15 and the elimination of barriers to inter- and
16 intra-agency programs and activities;

17 “(D) provide assistance and disseminate
18 information on best practices, effective program
19 coordination strategies, and recommendations
20 for improved educational programming for In-
21 dian infants, toddlers, and children with disabil-
22 ities; and

23 “(E) provide assistance in the preparation
24 of information required under paragraph
25 (2)(D).



1 “(6) ANNUAL REPORTS.—

2 “(A) IN GENERAL.—The advisory board
3 established under paragraph (5) shall prepare
4 and submit to the Secretary of the Interior and
5 to the Congress an annual report containing a
6 description of the activities of the advisory
7 board for the preceding year.

8 “(B) AVAILABILITY.—The Secretary of the
9 Interior shall make available to the Secretary of
10 Education the report described in subparagraph
11 (A).

12 “(i) AUTHORIZATION OF APPROPRIATIONS.—For the
13 purpose of carrying out this part, other than section 619,
14 there are authorized to be appropriated—

15 “(1) \$10,301,184,000 for fiscal year 2004;

16 “(2) \$11,957,361,000 for fiscal year 2005;

17 “(3) \$13,879,812,000 for fiscal year 2006;

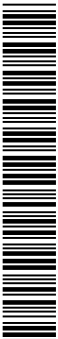
18 “(4) \$16,111,345,000 for fiscal year 2007;

19 “(5) \$18,701,654,000 for fiscal year 2008;

20 “(6) \$21,708,421,000 for fiscal year 2009;

21 “(7) \$25,198,603,000 for fiscal year 2010; and

22 “(8) such sums as may be necessary for fiscal
23 year 2011 and each subsequent fiscal year.”.



1 **SEC. 202. STATE ELIGIBILITY.**

2 (a) IN GENERAL.—(1) Section 612(a) of the Individ-
3 uals with Disabilities Education Act (20 U.S.C. 1412(a))
4 is amended in the matter preceding paragraph (1) by
5 striking “demonstrates to the satisfaction of” and insert-
6 ing “reasonably demonstrates to”.

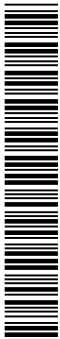
7 (2) Paragraphs (1) through (11) of section 612(a)
8 of the Individuals with Disabilities Education Act (20
9 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:

10 “(1) FREE APPROPRIATE PUBLIC EDU-
11 CATION.—

12 “(A) IN GENERAL.—A free appropriate
13 public education is available to all children with
14 disabilities residing in the State between the
15 ages of 3 and 21, inclusive, including children
16 with disabilities who have been suspended or ex-
17 pelled from school.

18 “(B) LIMITATION.—The obligation to
19 make a free appropriate public education avail-
20 able to all children with disabilities does not
21 apply with respect to children—

22 “(i) aged 3 through 5 and 18 through
23 21 in a State to the extent that its applica-
24 tion to those children would be inconsistent
25 with State law or practice, or the order of
26 any court, respecting the provision of pub-



1 lic education to children in those age
2 ranges; and

3 “(ii) aged 18 through 21 to the extent
4 that State law does not require that special
5 education and related services under this
6 part be provided to children with disabili-
7 ties who, in the educational placement
8 prior to their incarceration in an adult cor-
9 rectional facility—

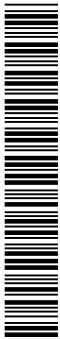
10 “(I) were not actually identified
11 as being a child with a disability
12 under section 602(3) of this Act; or

13 “(II) did not have an individual-
14 ized education program under this
15 part.

16 “(2) FULL EDUCATIONAL OPPORTUNITY
17 GOAL.—The State has established a goal of pro-
18 viding full educational opportunity to all children
19 with disabilities and a detailed timetable for accom-
20 plishing that goal.

21 “(3) CHILD FIND.—

22 “(A) IN GENERAL.—All children with dis-
23 abilities residing in the State, including children
24 with disabilities attending private schools, re-
25 gardless of the severity of their disabilities, and



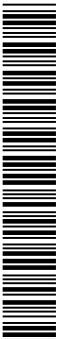
1 who are in need of special education and related
2 services, are identified, located, and evaluated
3 and a practical method is developed and imple-
4 mented to determine which children with dis-
5 abilities are currently receiving needed special
6 education and related services.

7 “(B) CONSTRUCTION.—Nothing in this
8 Act requires that children be classified by their
9 disability so long as each child who has a dis-
10 ability listed in section 602 and who, by reason
11 of that disability, needs special education and
12 related services is regarded as a child with a
13 disability under this part.

14 “(4) INDIVIDUALIZED EDUCATION PROGRAM.—
15 An individualized education program, or an individ-
16 ualized family service plan that meets the require-
17 ments of section 636(d), is developed, reviewed, and
18 revised for each child with a disability in accordance
19 with section 614(d).

20 “(5) LEAST RESTRICTIVE ENVIRONMENT.—

21 “(A) IN GENERAL.—To the maximum ex-
22 tent appropriate, children with disabilities, in-
23 cluding children in public or private institutions
24 or other care facilities, are educated with chil-
25 dren who are not disabled, and special classes,



1 separate schooling, or other removal of children
2 with disabilities from the regular educational
3 environment occurs only when the nature or se-
4 verity of the disability of a child is such that
5 education in regular classes with the use of sup-
6plementary aids and services cannot be achieved
7 satisfactorily.

8 “(B) ADDITIONAL REQUIREMENT.—

9 “(i) IN GENERAL.—If the State uses a
10 funding mechanism by which the State dis-
11 tributes State funds on the basis of the
12 type of setting in which a child is served,
13 the funding mechanism does not result in
14 placements that violate the requirements of
15 subparagraph (A).

16 “(ii) ASSURANCE.—If the State does
17 not have policies and procedures to ensure
18 compliance with clause (i), the State shall
19 provide the Secretary an assurance that it
20 will revise the funding mechanism as soon
21 as feasible to ensure that such mechanism
22 does not result in such placements.

23 “(6) PROCEDURAL SAFEGUARDS.—



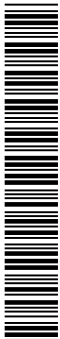
1 “(A) IN GENERAL.—Children with disabil-
2 ities and their parents are afforded the proce-
3 dural safeguards required by section 615.

4 “(B) ADDITIONAL PROCEDURAL SAFE-
5 GUARDS.—Procedures to ensure that testing
6 and evaluation materials and procedures uti-
7 lized for the purposes of evaluation and place-
8 ment of children with disabilities for services
9 under this Act will be selected and administered
10 so as not to be racially or culturally discrimina-
11 tory. Such materials or procedures shall be pro-
12 vided and administered in the child’s native lan-
13 guage or mode of communication, unless it
14 clearly is not feasible to do so, and no single
15 procedure shall be the sole criterion for deter-
16 mining an appropriate educational program for
17 a child.

18 “(7) EVALUATION.—Children with disabilities
19 are evaluated in accordance with subsections (a)
20 through (c) of section 614.

21 “(8) CONFIDENTIALITY.—Agencies in the State
22 comply with section 617(d) (relating to the confiden-
23 tiality of records and information).

24 “(9) TRANSITION FROM PART C TO PRESCHOOL
25 PROGRAMS.—Children participating in early-inter-

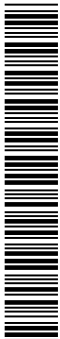


1 vention programs assisted under part C, and who
2 will participate in preschool programs assisted under
3 this part, experience a smooth and effective transi-
4 tion to those preschool programs in a manner con-
5 sistent with section 637(a)(8). By the third birthday
6 of such a child, an individualized education program
7 or, if consistent with section 636(d), an individual-
8 ized family service plan, has been developed and is
9 being implemented for the child. The local edu-
10 cational agency will participate in transition plan-
11 ning conferences arranged by the designated lead
12 agency under section 637(a)(8).

13 “(10) CHILDREN IN PRIVATE SCHOOLS.—

14 “(A) CHILDREN ENROLLED IN PRIVATE
15 SCHOOLS BY THEIR PARENTS.—

16 “(i) IN GENERAL.—To the extent con-
17 sistent with the number and location of
18 children with disabilities in the State who
19 are enrolled by their parents in private ele-
20 mentary and secondary schools in the area
21 served by such agency, provision is made
22 for the participation of those children in
23 the program assisted or carried out under
24 this part by providing for such children
25 special education and related services in



1 accordance with the following require-
2 ments, unless the Secretary has arranged
3 for services to those children under sub-
4 section (f):

5 “(I) Amounts to be expended for
6 the provision of those services (includ-
7 ing direct services to parentally-placed
8 children) by a local educational agen-
9 cy shall be equal to a proportionate
10 amount of Federal funds made avail-
11 able under this part.

12 “(II) In calculating the propor-
13 tionate share of Federal funds, the
14 local educational agency, after timely
15 and meaningful consultation with rep-
16 resentatives of children with disabil-
17 ities parentally-placed in private
18 schools as described in clause (iii),
19 shall conduct a thorough and complete
20 child find process to determine the
21 number of parentally-placed children
22 with disabilities attending private
23 schools located in the district.

24 “(III) Such services may be pro-
25 vided to children with disabilities on



1 the premises of private, including reli-
2 gious, schools, to the extent consistent
3 with law.

4 “(IV) State and local funds may
5 supplement and in no case shall sup-
6 plant the proportionate amount of
7 Federal funds required to be expended
8 under this paragraph.

9 “(V) Each local educational
10 agency maintains in its records and
11 provides to the State educational
12 agency the number of children evalu-
13 ated under this paragraph, the num-
14 ber of children determined to be chil-
15 dren with disabilities, and the number
16 of children served under this sub-
17 section.

18 “(ii) CHILD-FIND REQUIREMENT.—

19 “(I) IN GENERAL.—The require-
20 ments of paragraph (3) of this sub-
21 section (relating to child find) shall
22 apply with respect to children with
23 disabilities in the State who are en-
24 rolled in private, including religious,
25 elementary and secondary schools.



1 “(II) EQUITABLE PARTICIPATION.—

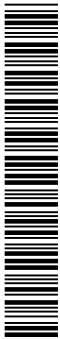
2 The child find process must be designed to
3 ensure the equitable participation of paren-
4 tally-placed private school children and an
5 accurate count of such children.

6 “(III) ACTIVITIES.—In carrying out
7 this clause, the local educational agency, or
8 where applicable, the State educational
9 agency, shall undertake activities similar to
10 those activities undertaken for its public
11 school children.

12 “(IV) COST.—The cost of carrying
13 out this clause, including individual evalua-
14 tions, may not be considered in deter-
15 mining whether a local education agency
16 has met its obligations under clause (i).

17 “(V) COMPLETION PERIOD.—Such
18 child find process shall be completed in a
19 time period comparable to that for other
20 students attending public schools in the
21 local educational agency.

22 “(iii) CONSULTATION.—To ensure
23 timely and meaningful consultation, a local
24 educational agency, or where appropriate,
25 a state educational agency, shall consult



1 with representatives of children with dis-
2 abilities parentally-placed in private schools
3 during the design and development of spe-
4 cial education and related services for
5 these children such as—

6 “(I) the child find process and
7 how parentally-placed private school
8 children suspected of having a dis-
9 ability can participate equitably, in-
10 cluding how parents, teachers, and
11 private school officials will be in-
12 formed of the process;

13 “(II) the determination of the
14 proportionate share of federal funds
15 available to serve parentally-placed
16 private school children with disabil-
17 ities under this paragraph, including
18 the determination of how those funds
19 were calculated;

20 “(III) the consultation process
21 among the district, private school offi-
22 cials, and parents of parentally-placed
23 private school children with disabil-
24 ities including how such process will
25 operate throughout the school year to

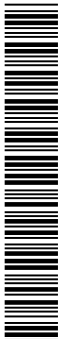


1 ensure that parentally-placed children
2 with disabilities identified through the
3 child find process can meaningfully
4 participate in special education and
5 related services; and

6 “(IV) how, where, and by whom
7 special education and related services
8 will be provided for parentally-placed
9 private school children, including a
10 discussion of alternate service delivery
11 mechanisms, how such services will be
12 apportioned if funds are insufficient
13 to serve all children, and how and
14 when these collaborative decisions will
15 be made.

16 “(iv) COMPLIANCE.—

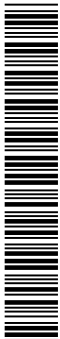
17 “(I) IN GENERAL.—A private
18 school official shall have the right to
19 complain to the State educational
20 agency that the local educational
21 agency did not engage in consultation
22 that was meaningful and timely, or
23 did not give due consideration to the
24 views of the private school official.



1 “(II) PROCEDURE.—If the pri-
2 vate school official wishes to complain,
3 the official shall provide the basis of
4 the noncompliance with this section by
5 the local educational agency to the
6 State educational agency, and the
7 local educational agency shall forward
8 the appropriate documentation to the
9 State educational agency. If the pri-
10 vate school official is dissatisfied with
11 the decision of the State educational
12 agency, such official may complain to
13 the Secretary by providing the basis
14 of the noncompliance with this section
15 by the local educational agency to the
16 Secretary, and the state educational
17 agency shall forward the appropriate
18 documentation to the Secretary.

19 “(v) PROVISION OF SERVICES.—

20 “(I) DIRECTLY OR THROUGH
21 CONTRACTS.—An agency may provide
22 special education and related services
23 directly or through contracts with
24 public and private agencies, organiza-
25 tions, and institutions.



1 “(II) SECULAR, NEUTRAL, NON-
2 IDEOLOGICAL.—Special education and
3 related services, including materials
4 and equipment, shall be secular, neu-
5 tral, and nonideological.

6 “(vi) PUBLIC CONTROL OF FUNDS.—

7 “(I) IN GENERAL.—The control
8 of funds used to provide special edu-
9 cation and related services under this
10 section, and title to materials, equip-
11 ment, and property purchased with
12 those funds, shall be in a public agen-
13 cy for the uses and purposes provided
14 in this Act, and a public agency shall
15 administer the funds and property.

16 “(II) PROVISION OF SERVICES.—
17 The provision of services under this
18 Act shall be provided—

19 “(aa) by employees of a pub-
20 lic agency; or

21 “(bb) through contract by
22 the public agency with an indi-
23 vidual, association, agency, orga-
24 nization, or other entity.

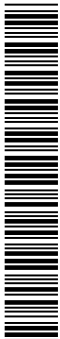


1 “(B) CHILDREN PLACED IN, OR REFERRED
2 TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

3 “(i) IN GENERAL.—Children with dis-
4 abilities in private schools and facilities are
5 provided special education and related
6 services, in accordance with an individual-
7 ized education program, at no cost to their
8 parents, if such children are placed in, or
9 referred to, such schools or facilities by the
10 State or appropriate local educational
11 agency as the means of carrying out the
12 requirements of this part or any other ap-
13 plicable law requiring the provision of spe-
14 cial education and related services to all
15 children with disabilities within such State.

16 “(ii) STANDARDS.—In all cases de-
17 scribed in clause (i), the State educational
18 agency shall determine whether such
19 schools and facilities meet standards that
20 apply to State and local educational agen-
21 cies and that children so served have all
22 the rights they would have if served by
23 such agencies.

24 “(C) PAYMENT FOR EDUCATION OF CHIL-
25 DREN ENROLLED IN PRIVATE SCHOOLS WITH-



1 OUT CONSENT OF OR REFERRAL BY THE PUB-
2 LIC AGENCY.—

3 “(i) IN GENERAL.—Subject to sub-
4 paragraph (A), this part does not require
5 a local educational agency to pay for the
6 cost of education, including special edu-
7 cation and related services, of a child with
8 a disability at a private school or facility if
9 that agency made a free appropriate public
10 education available to the child and the
11 parents elected to place the child in such
12 private school or facility.

13 “(ii) REIMBURSEMENT FOR PRIVATE
14 SCHOOL PLACEMENT.—If the parents of a
15 child with a disability, who previously re-
16 ceived special education and related serv-
17 ices under the authority of a public agency,
18 enroll the child in a private elementary or
19 secondary school without the consent of or
20 referral by the public agency, a court or a
21 hearing officer may require the agency to
22 reimburse the parents for the cost of that
23 enrollment if the court or hearing officer
24 finds that the agency had not made a free
25 appropriate public education available to



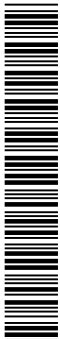
1 the child in a timely manner prior to that
2 enrollment.

3 “(iii) LIMITATION ON REIMBURSE-
4 MENT.—The cost of reimbursement de-
5 scribed in clause (ii) may be reduced or
6 denied—

7 “(I) if—

8 “(aa) at the most recent
9 IEP meeting that the parents at-
10 tended prior to removal of the
11 child from the public school, the
12 parents did not inform the IEP
13 Team that they were rejecting
14 the placement proposed by the
15 public agency to provide a free
16 appropriate public education to
17 their child, including stating their
18 concerns and their intent to en-
19 roll their child in a private school
20 at public expense; or

21 “(bb) 10 business days (in-
22 cluding any holidays that occur
23 on a business day) prior to the
24 removal of the child from the
25 public school, the parents did not



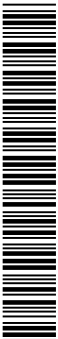
1 give written notice to the public
2 agency of the information de-
3 scribed in division (aa);

4 “(II) if, prior to the parents’ re-
5 moval of the child from the public
6 school, the public agency informed the
7 parents, through the notice require-
8 ments described in section 615(b)(7),
9 of its intent to evaluate the child (in-
10 cluding a statement of the purpose of
11 the evaluation that was appropriate
12 and reasonable), but the parents did
13 not make the child available for such
14 evaluation; or

15 “(III) upon a judicial finding of
16 unreasonableness with respect to ac-
17 tions taken by the parents.

18 “(iv) EXCEPTION.—Notwithstanding
19 the notice requirement in clause (iii)(I),
20 the cost of reimbursement—

21 “(I) shall not be reduced or de-
22 nied for failure to provide such notice
23 if—



1 “(aa) the school prevented
2 the parent from providing such
3 notice;

4 “(bb) the parents had not
5 received notice, pursuant to sec-
6 tion 615, of the notice require-
7 ment in clause (iii)(I); or

8 “(cc) compliance with clause
9 (iii)(I) would likely result in
10 physical harm to the child; and

11 “(II) may, in the discretion of a
12 court or a hearing officer, not be re-
13 duced or denied for failure to provide
14 such notice if—

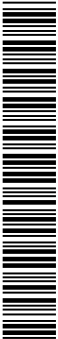
15 “(aa) the parent is illiterate
16 or cannot write in English; or

17 “(bb) compliance with clause
18 (iii)(I) would likely result in seri-
19 ous emotional harm to the child.

20 “(11) STATE EDUCATIONAL AGENCY RESPON-
21 SIBLE FOR GENERAL SUPERVISION.—

22 “(A) IN GENERAL.—The State educational
23 agency is responsible for ensuring that—

24 “(i) the requirements of this part are
25 met; and



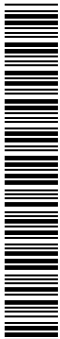
1 “(ii) all educational programs for chil-
2 dren with disabilities in the State, includ-
3 ing all such programs administered by any
4 other State or local agency—

5 “(I) are under the general super-
6 vision of individuals in the State who
7 are responsible for educational pro-
8 grams for children with disabilities;
9 and

10 “(II) meet the educational stand-
11 ards of the State educational agency.

12 “(B) LIMITATION.—Subparagraph (A)
13 shall not limit the responsibility of agencies in
14 the State other than the State educational
15 agency to provide, or pay for some or all of the
16 costs of, a free appropriate public education for
17 any child with a disability in the State.

18 “(C) EXCEPTION.—Notwithstanding sub-
19 paragraphs (A) and (B), the Governor (or an-
20 other individual pursuant to State law), con-
21 sistent with State law, may assign to any public
22 agency in the State the responsibility of ensur-
23 ing that the requirements of this part are met
24 with respect to children with disabilities who



1 are convicted as adults under State law and in-
2 carcerated in adult prisons.”.

3 (3) Paragraphs (13) through (22) of section 612(a)
4 of the Individuals with Disabilities Education Act (20
5 U.S.C. 1412(a)(13)–(22)) are amended to read as follows:

6 “(13) PROCEDURAL REQUIREMENTS RELATING
7 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—
8 The State educational agency will not make a final
9 determination that a local educational agency is not
10 eligible for assistance under this part without first
11 affording that agency reasonable notice and an op-
12 portunity for a hearing.

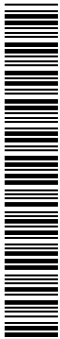
13 “(14) PERSONNEL STANDARDS.—

14 “(A) IN GENERAL.—The State educational
15 agency has established and maintains standards
16 to ensure that personnel necessary to carry out
17 this part are appropriately and adequately pre-
18 pared and trained.

19 “(B) STANDARDS DESCRIBED.—Such
20 standards shall—

21 “(i) ensure that special education
22 teachers who teach in core academic sub-
23 jects are highly qualified in those subjects;

24 “(ii) be consistent with any State-ap-
25 proved or State-recognized certification, li-



1 censing, registration, or other comparable
2 requirements that apply to the professional
3 discipline in which those personnel are pro-
4 viding special education or related services
5 in order to ensure that such individuals are
6 qualified to provide such services; and

7 “(iii) allow paraprofessionals and as-
8 sistants who are appropriately trained and
9 supervised, in accordance with State law,
10 regulations, or written policy, in meeting
11 the requirements of this part to be used to
12 assist in the provision of special education
13 and related services to children with dis-
14 abilities under this part.

15 “(15) PERFORMANCE GOALS AND INDICA-
16 TORS.—The State—

17 “(A) has established goals for the perform-
18 ance of children with disabilities in the State
19 that—

20 “(i) promote the purposes of this Act,
21 as stated in section 601(d);

22 “(ii) are the same as the State’s defi-
23 nition of adequate yearly progress, includ-
24 ing the State’s objectives for progress by
25 children with disabilities, under section



1 1111(b)(2)(C) of the Elementary and Sec-
2 ondary Education Act of 1965;

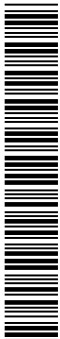
3 “(iii) address dropout rates, as well as
4 such other factors as the State may deter-
5 mine; and

6 “(iv) are consistent, to the extent ap-
7 propriate, with any other goals and stand-
8 ards for children established by the State;

9 “(B) has established performance indica-
10 tors the State will use to assess progress toward
11 achieving those goals described in subparagraph
12 (A), including measurable annual objectives for
13 progress by children with disabilities under sec-
14 tion 1111(b)(2)(C) of the Elementary and Sec-
15 ondary Education Act of 1965; and

16 “(C) will annually report to the Secretary
17 and the public on the progress of the State, and
18 of children with disabilities in the State, toward
19 meeting the goals established under subpara-
20 graph (A), which may include elements of the
21 reports required under section 1111(h) of the
22 Elementary and Secondary Education Act of
23 1965.

24 “(16) PARTICIPATION IN ASSESSMENTS.—



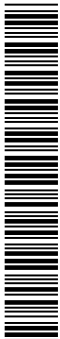
1 “(A) IN GENERAL.—(i) All children with
2 disabilities are included in all general State and
3 district-wide assessment programs, including
4 assessments described under title I of the Ele-
5 mentary and Secondary Education Act of 1965,
6 with appropriate accommodations, where nec-
7 essary and as indicated in their respective indi-
8 vidualized education programs.

9 “(ii) The State (or, in the case of a dis-
10 trict-wide assessment, the local educational
11 agency) has developed and implemented guide-
12 lines for the provision of accommodations de-
13 scribed in clause (i).

14 “(iii) The State (or, in the case of a dis-
15 trict-wide assessment the local educational
16 agency)—

17 “(I) has developed and implemented
18 guidelines for the participation of children
19 with disabilities in alternate assessments
20 for those children who cannot participate
21 in regular assessments under clause (i);
22 and

23 “(II) conducts those alternate assess-
24 ments.

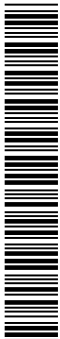


1 “(B) REPORTS.—The State educational
2 agency (or, in the case of a district-wide assess-
3 ment, the local educational agency) makes
4 available to the public, and reports to the public
5 with the same frequency and in the same detail
6 as it reports on the assessment of nondisabled
7 children, the following:

8 “(i) The number of children with dis-
9 abilities participating in regular assess-
10 ments, and the number of those children
11 who were provided accommodations in
12 order to participate in those assessments.

13 “(ii) The number of children with dis-
14 abilities participating in alternate assess-
15 ments.

16 “(iii) The performance of children
17 with disabilities on regular assessments
18 and on alternate assessments (if the num-
19 ber of children with disabilities partici-
20 pating in those assessments is sufficient to
21 yield statistically reliable information and
22 reporting that information would not re-
23 veal personally identifiable information
24 about an individual student), compared
25 with the achievement of all children, in-



1 cluding children with disabilities, on those
2 assessments.

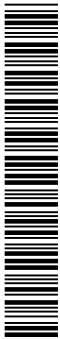
3 “(17) DISPUTE RESOLUTION.—The State has
4 in effect systems of mediation and voluntary binding
5 arbitration pursuant to section 615(e).

6 “(18) SUPPLEMENTATION OF STATE, LOCAL,
7 AND OTHER FEDERAL FUNDS.—

8 “(A) EXPENDITURES.—Funds paid to a
9 State under this part will be expended in ac-
10 cordance with all the provisions of this part.

11 “(B) PROHIBITION AGAINST COMMING-
12 GLING.—Funds paid to a State under this part
13 will not be commingled with State funds.

14 “(C) PROHIBITION AGAINST SUPPLAN-
15 TATION AND CONDITIONS FOR WAIVER BY SEC-
16 RETARY.—Except as provided in section 613,
17 funds paid to a State under this part will be
18 used to supplement the level of Federal, State,
19 and local funds (including funds that are not
20 under the direct control of State or local edu-
21 cational agencies) expended for special edu-
22 cation and related services provided to children
23 with disabilities under this part and in no case
24 to supplant such Federal, State, and local
25 funds, except that, where the State provides



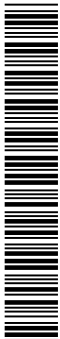
1 clear and convincing evidence that all children
2 with disabilities have available to them a free
3 appropriate public education, the Secretary may
4 waive, in whole or in part, the requirements of
5 this subparagraph if the Secretary concurs with
6 the evidence provided by the State.

7 “(19) MAINTENANCE OF STATE FINANCIAL
8 SUPPORT.—

9 “(A) IN GENERAL.—The State does not re-
10 duce the amount of State financial support for
11 special education and related services for chil-
12 dren with disabilities, or otherwise made avail-
13 able because of the excess costs of educating
14 those children, below the amount of that sup-
15 port for the preceding fiscal year.

16 “(B) REDUCTION OF FUNDS FOR FAILURE
17 TO MAINTAIN SUPPORT.—The Secretary shall
18 reduce the allocation of funds under section 611
19 for any fiscal year following the fiscal year in
20 which the State fails to comply with the re-
21 quirement of subparagraph (A) by the same
22 amount by which the State fails to meet the re-
23 quirement.

24 “(C) WAIVERS FOR EXCEPTIONAL OR UN-
25 CONTROLLABLE CIRCUMSTANCES.—The Sec-



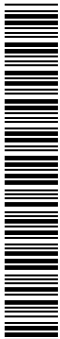
1 retary may waive the requirement of subpara-
2 graph (A) for a State, for one fiscal year at a
3 time, if the Secretary determines that—

4 “(i) granting a waiver would be equi-
5 table due to exceptional or uncontrollable
6 circumstances such as a natural disaster or
7 a precipitous and unforeseen decline in the
8 financial resources of the State; or

9 “(ii) the State meets the standard in
10 paragraph (18)(C) of this section for a
11 waiver of the requirement to supplement,
12 and not to supplant, funds received under
13 this part.

14 “(D) SUBSEQUENT YEARS.—If, for any
15 year, a State fails to meet the requirement of
16 subparagraph (A), including any year for which
17 the State is granted a waiver under subpara-
18 graph (C), the financial support required of the
19 State in future years under subparagraph (A)
20 shall be the amount that would have been re-
21 quired in the absence of that failure and not
22 the reduced level of the State’s support.

23 “(20) PUBLIC PARTICIPATION.—Prior to the
24 adoption of any policies and procedures needed to
25 comply with this section (including any amendments



1 to such policies and procedures), the State ensures
2 that there are public hearings, adequate notice of
3 the hearings, and an opportunity for comment avail-
4 able to the general public, including individuals with
5 disabilities and parents of children with disabilities.

6 “(21) STATE ADVISORY PANEL.—

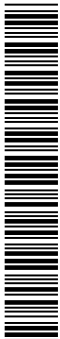
7 “(A) IN GENERAL.—The State has estab-
8 lished and maintains an advisory panel for the
9 purpose of providing policy guidance with re-
10 spect to special education and related services
11 for children with disabilities in the State.

12 “(B) MEMBERSHIP.—Such advisory panel
13 shall consist of members appointed by the Gov-
14 ernor, or any other official authorized under
15 State law to make such appointments, that is
16 representative of the State population and that
17 is composed of individuals involved in, or con-
18 cerned with, the education of children with dis-
19 abilities, including—

20 “(i) parents of children with disabil-
21 ities (ages birth through 26);

22 “(ii) individuals with disabilities;

23 “(iii) teachers;



1 “(iv) representatives of institutions of
2 higher education that prepare special edu-
3 cation and related services personnel;

4 “(v) State and local education offi-
5 cials;

6 “(vi) administrators of programs for
7 children with disabilities;

8 “(vii) representatives of other State
9 agencies involved in the financing or deliv-
10 ery of related services to children with dis-
11 abilities;

12 “(viii) representatives of private
13 schools and public charter schools;

14 “(ix) at least one representative of a
15 vocational, community, or business organi-
16 zation concerned with the provision of
17 transition services to children with disabil-
18 ities; and

19 “(x) representatives from the State
20 juvenile and adult corrections agencies.

21 “(C) SPECIAL RULE.—A majority of the
22 members of the panel shall be individuals with
23 disabilities or parents of children with disabil-
24 ities ages birth through 26.

25 “(D) DUTIES.—The advisory panel shall—



1 “(i) advise the State educational agen-
2 cy of unmet needs within the State in the
3 education of children with disabilities;

4 “(ii) comment publicly on any rules or
5 regulations proposed by the State regard-
6 ing the education of children with disabil-
7 ities;

8 “(iii) advise the State educational
9 agency in developing evaluations and re-
10 porting on data to the Secretary under sec-
11 tion 618;

12 “(iv) advise the State educational
13 agency in developing corrective action
14 plans to address findings identified in Fed-
15 eral monitoring reports under this part;
16 and

17 “(v) advise the State educational
18 agency in developing and implementing
19 policies relating to the coordination of serv-
20 ices for children with disabilities.

21 “(22) SUSPENSION AND EXPULSION RATES.—

22 “(A) IN GENERAL.—The State educational
23 agency examines data, including data
24 disaggregated by race and ethnicity, to deter-
25 mine if significant discrepancies are occurring



1 in the rate of long-term suspensions and expul-
2 sions of children with disabilities—

3 “(i) among local educational agencies
4 in the State; or

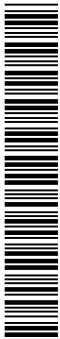
5 “(ii) compared to such rates for non-
6 disabled children within such agencies.

7 “(B) REVIEW AND REVISION OF POLI-
8 CIES.—If such discrepancies are occurring, the
9 State educational agency reviews and, if appro-
10 priate, revises (or requires the affected State or
11 local educational agency to revise) its policies,
12 procedures, and practices relating to the devel-
13 opment and implementation of IEPs, the use of
14 positive behavioral interventions and supports,
15 and procedural safeguards, to ensure that such
16 policies, procedures, and practices comply with
17 this Act.”.

18 (4) Section 612(a) of the Individuals with Disabilities
19 Education Act (20 U.S.C. 1412(a)(13)–(22)) is amended
20 by adding at the end the following:

21 “(23) INSTRUCTIONAL MATERIALS.—

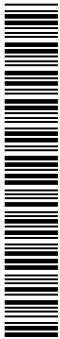
22 “(A) IN GENERAL.—The State adopts the
23 national instructional materials accessibility
24 standard for the purposes of providing instruc-
25 tional materials to blind persons or other per-



1 sons with print disabilities in a timely manner
2 after the publication of the standard by the
3 Secretary in the Federal Register.

4 “(B) PURCHASE REQUIREMENT.—Not
5 later than two years after the date of the enact-
6 ment of the Improving Education Results for
7 Children With Disabilities Act of 2003, the
8 State educational agency, when purchasing in-
9 structional materials for use in public elemen-
10 tary and secondary schools within the State, re-
11 quires the publisher of the instructional mate-
12 rials, as a part of any purchase agreement that
13 is made, renewed, or revised, to prepare and
14 supply electronic files containing the contents of
15 the instructional materials using the national
16 instructional materials accessibility standard.

17 “(C) DEFINITION.—For purposes of this
18 paragraph, the term ‘instructional materials’
19 means printed textbooks and related core mate-
20 rials that are written and published primarily
21 for use in elementary school and secondary
22 school instruction and are required by a State
23 educational agency or local educational agency
24 for use by pupils in the classroom.



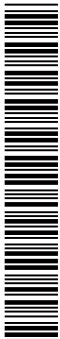
1 “(24) OVERIDENTIFICATION AND
2 DISPROPORTIONALITY.—The State has in effect,
3 consistent with the purposes of this Act and with
4 section 618, policies and procedures designed to pre-
5 vent the overidentification or disproportionate rep-
6 resentation by race and ethnicity of children as chil-
7 dren with disabilities, including the identification of
8 children as children with disabilities in accordance
9 with a particular impairment described in section
10 602(3).

11 (b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
12 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
13 SERVICES.—Section 612(b) of the Individuals with Dis-
14 abilities Education Act (20 U.S.C. 1412(b)) is amended
15 to read as follows:

16 “(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
17 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
18 SERVICES.—If the State educational agency provides free
19 appropriate public education to children with disabilities,
20 or provides direct services to such children, such agency—

21 “(1) shall comply with any additional require-
22 ments of section 613(a), as if such agency were a
23 local educational agency; and

24 “(2) may use amounts that are otherwise avail-
25 able to such agency under this part to serve those



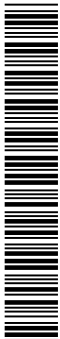
1 children without regard to section 613(a)(2)(A)(i)
2 (relating to excess costs).”.

3 (c) EXCEPTION FOR PRIOR STATE PLANS.—Section
4 612(c) of the Individuals with Disabilities Education Act
5 (20 U.S.C. 1412(c)) is amended to read as follows:

6 “(c) EXCEPTION FOR PRIOR STATE PLANS.—

7 “(1) IN GENERAL.—If a State has on file with
8 the Secretary policies and procedures that dem-
9 onstrate that such State meets any requirement of
10 subsection (a), including any policies and procedures
11 filed under this part as in effect before the effective
12 date of the Improving Education Results for Chil-
13 dren With Disabilities Act of 2003, the Secretary
14 shall consider such State to have met such require-
15 ment for purposes of receiving a grant under this
16 part.

17 “(2) MODIFICATIONS MADE BY STATE.—Sub-
18 ject to paragraph (3), an application submitted by a
19 State in accordance with this section shall remain in
20 effect until the State submits to the Secretary such
21 modifications as the State deems necessary. This
22 section shall apply to a modification to an applica-
23 tion to the same extent and in the same manner as
24 this section applies to the original plan.



1 “(3) MODIFICATIONS REQUIRED BY THE SEC-
2 RETARY.—If, after the effective date of the Improv-
3 ing Education Results for Children With Disabilities
4 Act of 2003, the provisions of this Act are amended
5 (or the regulations developed to carry out this Act
6 are amended), or there is a new interpretation of
7 this Act by a Federal court or a State’s highest
8 court, or there is an official finding of noncompli-
9 ance with Federal law or regulations, the Secretary
10 may require a State to modify its application only to
11 the extent necessary to ensure the State’s compli-
12 ance with this part.”.

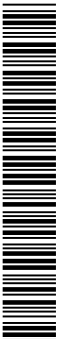
13 (d) APPROVAL BY THE SECRETARY.—Section 612(d)
14 of the Individuals with Disabilities Education Act (20
15 U.S.C. 1412(d)) is amended to read as follows:

16 “(d) APPROVAL BY THE SECRETARY.—

17 “(1) IN GENERAL.—If the Secretary determines
18 that a State is eligible to receive a grant under this
19 part, the Secretary shall notify the State of that de-
20 termination.

21 “(2) NOTICE AND HEARING.—The Secretary
22 shall not make a final determination that a State is
23 not eligible to receive a grant under this part until
24 after providing the State—

25 “(A) with reasonable notice; and



1 “(B) with an opportunity for a hearing.”.

2 (e) ASSISTANCE UNDER OTHER FEDERAL PRO-
3 GRAMS.—Section 612(e) of the Individuals with Disabil-
4 ities Education Act (20 U.S.C. 1412(e)) is amended to
5 read as follows:

6 “(e) ASSISTANCE UNDER OTHER FEDERAL PRO-
7 GRAMS.—Nothing in this title permits a State to reduce
8 medical and other assistance available, or to alter eligi-
9 bility, under titles V and XIX of the Social Security Act
10 with respect to the provision of a free appropriate public
11 education for children with disabilities in the State.”.

12 **SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.**

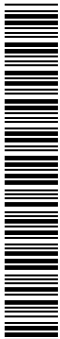
13 Section 613 of the Individuals with Disabilities Edu-
14 cation Act (20 U.S.C. 1413) is amended to read as follows:

15 **“SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.**

16 “(a) IN GENERAL.—A local educational agency is eli-
17 gible for assistance under this part for a fiscal year if such
18 agency reasonably demonstrates to the State educational
19 agency that it meets each of the following conditions:

20 “(1) CONSISTENCY WITH STATE POLICIES.—

21 The local educational agency, in providing for the
22 education of children with disabilities within its ju-
23 risdiction, has in effect policies, procedures, and pro-
24 grams that are consistent with the State policies and
25 procedures established under section 612.



1 “(2) USE OF AMOUNTS.—

2 “(A) IN GENERAL.—Amounts provided to
3 the local educational agency under this part
4 shall be expended in accordance with the appli-
5 cable provisions of this part and—

6 “(i) shall be used only to pay the ex-
7 cess costs of providing special education
8 and related services to children with dis-
9 abilities;

10 “(ii) shall be used to supplement
11 State, local, and other Federal funds and
12 not to supplant such funds; and

13 “(iii) shall not be used, except as pro-
14 vided in subparagraphs (B) and (C), to re-
15 duce the level of expenditures for the edu-
16 cation of children with disabilities made by
17 the local educational agency from local
18 funds below the level of those expenditures
19 for the preceding fiscal year.

20 “(B) EXCEPTION.—Notwithstanding the
21 restriction in subparagraph (A)(iii), a local edu-
22 cational agency may reduce the level of expendi-
23 tures where such reduction is attributable to—



1 “(i) the voluntary departure, by re-
2 tirement or otherwise, or departure for just
3 cause, of special education personnel;

4 “(ii) a decrease in the enrollment of
5 children with disabilities;

6 “(iii) the termination of the obligation
7 of the agency, consistent with this part, to
8 provide a program of special education to
9 a particular child with a disability that is
10 an exceptionally costly program, as deter-
11 mined by the State educational agency, be-
12 cause the child—

13 “(I) has left the jurisdiction of
14 the agency;

15 “(II) has reached the age at
16 which the obligation of the agency to
17 provide a free appropriate public edu-
18 cation to the child has terminated; or

19 “(III) no longer needs such pro-
20 gram of special education; or

21 “(iv) the termination of costly expend-
22 itures for long-term purchases, such as the
23 acquisition of equipment or the construc-
24 tion of school facilities.



1 “(C) TREATMENT OF FEDERAL FUNDS IN
2 CERTAIN FISCAL YEARS.—

3 “(i) Notwithstanding clauses (ii) and
4 (iii) of subparagraph (A), for any fiscal
5 year for which amounts appropriated to
6 carry out section 611 exceeds
7 \$4,100,000,000, a local educational agency
8 may treat as local funds, for the purpose
9 of such clauses, up to 20 percent of the
10 amount of funds it receives under this part
11 that exceeds the amount it received under
12 this part for the previous fiscal year.

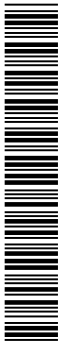
13 “(ii) If a local educational agency
14 chooses to use the authority under clause
15 (i), then the agency shall use those local
16 funds to provide additional funding for
17 programs under the Elementary and Sec-
18 ondary Education Act of 1965, including,
19 but not limited to, programs that address
20 student achievement, comprehensive school
21 reform, literacy, teacher quality and pro-
22 fessional development, school safety,
23 before- and after- school learning opportu-
24 nities.



1 “(iii) Notwithstanding clause (i), if a
2 State educational agency determines that a
3 local educational agency is unable to estab-
4 lish and maintain programs of free appro-
5 priate public education that meet the re-
6 quirements of subsection (a), the State
7 educational agency shall prohibit the local
8 educational agency from treating funds re-
9 ceived under this part as local funds under
10 clause (i) for that fiscal year, but only if
11 it is authorized to do so by the State con-
12 stitution or a State statute.

13 “(D) SCHOOLWIDE PROGRAMS UNDER
14 TITLE I OF THE ESEA.—Notwithstanding sub-
15 paragraph (A) or any other provision of this
16 part, a local educational agency may use funds
17 received under this part for any fiscal year to
18 carry out a schoolwide program under section
19 1114 of the Elementary and Secondary Edu-
20 cation Act of 1965, except that the amount so
21 used in any such program shall not exceed—

22 “(i) the number of children with dis-
23 abilities participating in the schoolwide
24 program; multiplied by



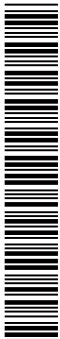
1 “(ii)(I) the amount received by the
2 local educational agency under this part
3 for that fiscal year; divided by

4 “(II) the number of children with dis-
5 abilities in the jurisdiction of that agency.

6 “(3) PERSONNEL DEVELOPMENT.—The local
7 educational agency shall ensure that all personnel
8 necessary to carry out this part are appropriately
9 and adequately prepared, consistent with the re-
10 quirements of section 612 of this Act and section
11 1119 of the Elementary and Secondary Education
12 Act of 1965.

13 “(4) PERMISSIVE USE OF FUNDS.—Notwith-
14 standing paragraph (2)(A) or section 612(a)(18)(B)
15 (relating to commingled funds), funds provided to
16 the local educational agency under this part may be
17 used for the following activities:

18 “(A) SERVICES AND AIDS THAT ALSO BEN-
19 EFIT NONDISABLED CHILDREN.—For the costs
20 of special education and related services and
21 supplementary aids and services provided in a
22 regular class or other education-related setting
23 to a child with a disability in accordance with
24 the individualized education program of the



1 child, even if one or more nondisabled children
2 benefit from such services.

3 “(B) PREREFERRAL SERVICES.—To de-
4 velop and implement a system of comprehensive
5 coordinated prereferral education support serv-
6 ices in accordance with subsection (f).

7 “(C) HIGH COST EDUCATION AND RE-
8 LATED SERVICES.—To establish and implement
9 cost or risk sharing funds, consortia, or co-
10 operatives for the agency itself, or for local edu-
11 cational agencies working in consortium of
12 which the local educational agency is a part, to
13 pay for high cost special education and related
14 services.

15 “(D) CASE MANAGEMENT AND ADMINIS-
16 TRATION.—To purchase appropriate technology
17 for record keeping, data collection, and related
18 case management activities of teachers and re-
19 lated services personnel who are providing serv-
20 ices described in the individualized education
21 program of children with disabilities necessary
22 to the implementation of those case manage-
23 ment activities.

24 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
25 ICES FOR CHILDREN WITH DISABILITIES IN

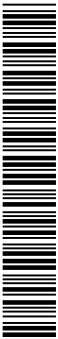


1 SCHOOLS DESIGNATED FOR IMPROVEMENT.—

2 For the reasonable additional expenses (as de-
3 termined by the local educational agency) of
4 any necessary accommodations to allow children
5 with disabilities who are being educated in a
6 school identified for school improvement under
7 section 1116(b) of the Elementary and Sec-
8 ondary Education Act of 1965 (20 U.S.C.
9 6316(b)) to be provided supplemental edu-
10 cational services under section 1116(e) of such
11 Act on an equitable basis.

12 “(5) TREATMENT OF CHARTER SCHOOLS AND
13 THEIR STUDENTS.—In carrying out this part with
14 respect to charter schools that are public schools of
15 the local educational agency, the local educational
16 agency—

17 “(A) serves children with disabilities at-
18 tending those schools in the same manner as it
19 serves children with disabilities in its other
20 schools, including providing supplemental and
21 related services on site at the charter school
22 when the local educational agency has a policy
23 or practice of providing those services on site to
24 its other schools; and



1 “(B) provides funds under this part to
2 those schools on the same basis, including pro-
3 portional distribution based on relative enroll-
4 ment of children with disabilities, and at the
5 same time as the local educational agency dis-
6 tributes State funds, local funds, or a combina-
7 tion of State and local funds, to those schools
8 under the State charter law.

9 “(6) PURCHASE OF INSTRUCTIONAL MATE-
10 RIALS.—Not later than two years after the date of
11 the enactment of the Improving Education Results
12 for Children With Disabilities Act of 2003, the local
13 educational agency, when purchasing instructional
14 materials for use in public elementary and secondary
15 schools within the local educational agency, requires
16 the publisher of the instructional materials, as a
17 part of any purchase agreement that is made, re-
18 newed, or revised, to prepare and supply electronic
19 files containing the contents of the instructional ma-
20 terials using the national instructional materials ac-
21 cessibility standard described in section 612(a)(23).

22 “(7) INFORMATION FOR STATE EDUCATIONAL
23 AGENCY.—The local educational agency shall provide
24 the State educational agency with information nec-
25 essary to enable the State educational agency to

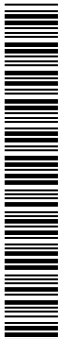


1 carry out its duties under this part, including, with
2 respect to paragraphs (15) and (16) of section
3 612(a), information relating to the performance of
4 children with disabilities participating in programs
5 carried out under this part.

6 “(8) PUBLIC INFORMATION.—The local edu-
7 cational agency shall make available to parents of
8 children with disabilities and to the general public
9 all documents relating to the eligibility of such agen-
10 cy under this part.

11 “(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

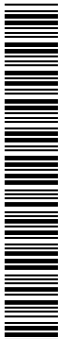
12 “(1) IN GENERAL.—If a local educational agen-
13 cy or State agency has on file with the State edu-
14 cational agency policies and procedures that dem-
15 onstrate that such local educational agency, or such
16 State agency, as the case may be, meets any require-
17 ment of subsection (a), including any policies and
18 procedures filed under this part as in effect before
19 the effective date of the Improving Education Re-
20 sults for Children With Disabilities Act of 2003, the
21 State educational agency shall consider such local
22 educational agency or State agency, as the case may
23 be, to have met such requirement for purposes of re-
24 ceiving assistance under this part.



1 “(2) MODIFICATION MADE BY LOCAL EDU-
2 CATIONAL AGENCY.—Subject to paragraph (3), an
3 application submitted by a local educational agency
4 in accordance with this section shall remain in effect
5 until it submits to the State educational agency such
6 modifications as the local educational agency deems
7 necessary.

8 “(3) MODIFICATIONS REQUIRED BY STATE
9 EDUCATIONAL AGENCY.—If, after the date of the en-
10 actment of the Improving Education Results for
11 Children With Disabilities Act of 2003, the provi-
12 sions of this Act are amended (or the regulations de-
13 veloped to carry out this Act are amended), or there
14 is a new interpretation of this Act by Federal or
15 State courts, or there is an official finding of non-
16 compliance with Federal or State law or regulations,
17 the State educational agency may require a local
18 educational agency to modify its application only to
19 the extent necessary to ensure the local educational
20 agency’s compliance with this part or State law.

21 “(c) NOTIFICATION OF LOCAL EDUCATIONAL AGEN-
22 CY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the
23 State educational agency determines that a local edu-
24 cational agency or State agency is not eligible under this
25 section, the State educational agency shall notify the local

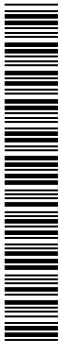


1 educational agency or State agency, as the case may be,
2 of that determination and shall provide such local edu-
3 cational agency or State agency with reasonable notice and
4 an opportunity for a hearing.

5 “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

6 “(1) IN GENERAL.—If the State educational
7 agency, after reasonable notice and an opportunity
8 for a hearing, finds that a local educational agency
9 or State agency that has been determined to be eligi-
10 ble under this section is failing to comply with any
11 requirement described in subsection (a), the State
12 educational agency shall reduce or shall not provide
13 any further payments to the local educational agency
14 or State agency until the State educational agency
15 is satisfied that the local educational agency or State
16 agency, as the case may be, is complying with that
17 requirement.

18 “(2) ADDITIONAL REQUIREMENT.—Any State
19 agency or local educational agency in receipt of a no-
20 tice described in paragraph (1) shall, by means of
21 public notice, take such measures as may be nec-
22 essary to bring the pendency of an action pursuant
23 to this subsection to the attention of the public with-
24 in the jurisdiction of such agency.



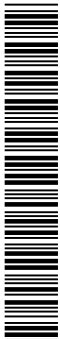
1 “(3) CONSIDERATION.—In carrying out its re-
2 sponsibilities under paragraph (1), the State edu-
3 cational agency shall consider any decision made in
4 a hearing held under section 615 that is adverse to
5 the local educational agency or State agency involved
6 in that decision.

7 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

8 “(1) JOINT ESTABLISHMENT.—

9 “(A) IN GENERAL.—A State educational
10 agency may require a local educational agency
11 to establish its eligibility jointly with another
12 local educational agency if the State educational
13 agency determines that the local educational
14 agency would be ineligible under this section be-
15 cause the local educational agency would not be
16 able to establish and maintain programs of suf-
17 ficient size and scope to effectively meet the
18 needs of children with disabilities.

19 “(B) CHARTER SCHOOL EXCEPTION.—A
20 State educational agency may not require a
21 charter school that is a local educational agency
22 to jointly establish its eligibility under subpara-
23 graph (A) unless it is explicitly permitted to do
24 so under the State’s charter school statute.



1 “(2) AMOUNT OF PAYMENTS.—If a State edu-
2 cational agency requires the joint establishment of
3 eligibility under paragraph (1), the total amount of
4 funds made available to the affected local edu-
5 cational agencies shall be equal to the sum of the
6 payments that each such local educational agency
7 would have received under section 611(f) if such
8 agencies were eligible for such payments.

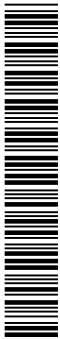
9 “(3) REQUIREMENTS.—Local educational agen-
10 cies that establish joint eligibility under this sub-
11 section shall—

12 “(A) adopt policies and procedures that
13 are consistent with the State’s policies and pro-
14 cedures under section 612(a); and

15 “(B) be jointly responsible for imple-
16 menting programs that receive assistance under
17 this part.

18 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
19 ICE AGENCIES.—

20 “(A) IN GENERAL.—If an educational serv-
21 ice agency is required by State law to carry out
22 programs under this part, the joint responsibil-
23 ities given to local educational agencies under
24 this subsection shall—



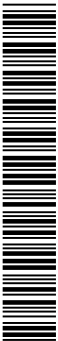
1 “(i) not apply to the administration
2 and disbursement of any payments re-
3 ceived by that educational service agency;
4 and

5 “(ii) be carried out only by that edu-
6 cational service agency.

7 “(B) ADDITIONAL REQUIREMENT.—Not-
8 withstanding any other provision of this sub-
9 section, an educational service agency shall pro-
10 vide for the education of children with disabil-
11 ities in the least restrictive environment, as re-
12 quired by section 612(a)(5).

13 “(f) PREREFERRAL SERVICES.—

14 “(1) IN GENERAL.—A local educational agency
15 may use not more than 15 percent of the amount
16 such agency receives under this part for any fiscal
17 year, in combination with other amounts (which may
18 include amounts other than education funds), to de-
19 velop and implement comprehensive coordinated
20 prereferral educational support services for students
21 in kindergarten through grade 12 (with a particular
22 emphasis on students in grades kindergarten
23 through 3) who have not been identified as needing
24 special education or related services but who need



1 additional academic and behavioral support to suc-
2 ceed in a general education environment.

3 “(2) ACTIVITIES.—In implementing comprehen-
4 sive coordinated prereferral educational services
5 under this subsection, a local educational agency
6 may carry out the following activities:

7 “(A) Professional development (which may
8 be provided by entities other than local edu-
9 cational agencies) for teachers to enable them
10 to deliver scientifically based academic and be-
11 havioral interventions, including scientifically
12 based literacy instruction.

13 “(B) Providing educational evaluations,
14 services, and supports, including scientifically
15 based literacy instruction.

16 “(C) Providing behavioral evaluations and
17 services and supports, including positive behav-
18 ioral interventions and supports.

19 “(3) EXCLUSION.—Nothing in this subsection
20 shall be construed to either limit or create a right
21 to a free appropriate public education under this
22 part.

23 “(4) REPORTING.—Each local educational
24 agency that develops and maintains comprehensive
25 coordinated prereferral educational support services



1 under this subsection shall annually report to the
2 State educational agency on—

3 “(A) the number of students served under
4 this subsection; and

5 “(B) the number of students served under
6 this subsection who subsequently receive special
7 education and related services under this Act
8 during the preceding 2-year period.

9 “(5) COORDINATION WITH THE ELEMENTARY
10 AND SECONDARY EDUCATION ACT OF 1965.—

11 “(A) IN GENERAL.—Comprehensive coordi-
12 nated prereferral educational support services
13 provided under this subsection may be aligned
14 with activities funded by, and carried out
15 under, the Elementary and Secondary Edu-
16 cation Act of 1965, such as the Reading First
17 program under subpart 1 of part B of title I of
18 such Act, the Early Reading First program
19 under subpart 2 of part B of title I of such Act,
20 reading and math supports under part A of
21 title I of such Act, and behavior intervention
22 supports, that improve results for children with
23 disabilities.

24 “(B) MAINTENANCE OF EFFORT.—Funds
25 used under this section shall be used to supple-



1 ment, and not supplant, funds made available
2 under the Elementary and Secondary Education
3 Act of 1965.

4 “(g) DIRECT SERVICES BY THE STATE EDU-
5 CATIONAL AGENCY.—

6 “(1) IN GENERAL.—A State educational agency
7 shall use the payments that would otherwise have
8 been available to a local educational agency or to a
9 State agency to provide special education and re-
10 lated services directly to children with disabilities re-
11 siding in the area served by that local agency, or for
12 whom that State agency is responsible, if the State
13 educational agency determines that the local edu-
14 cation agency or State agency, as the case may be—

15 (A) has not provided the information need-
16 ed to establish the eligibility of such agency
17 under this section;

18 (B) is unable to establish and maintain
19 programs of free appropriate public education
20 that meet the requirements of subsection (a);

21 “(C) is unable or unwilling to be consoli-
22 dated with one or more local educational agen-
23 cies in order to establish and maintain such
24 programs; or



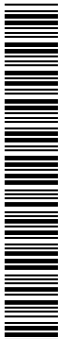
1 “(D) has one or more children with disabil-
2 ities who can best be served by a regional or
3 State program or service-delivery system de-
4 signed to meet the needs of such children.

5 “(2) MANNER AND LOCATION OF EDUCATION
6 AND SERVICES.—The State educational agency may
7 provide special education and related services under
8 paragraph (1) in such manner and at such locations
9 (including regional or State centers) as the State
10 agency considers appropriate. Such education and
11 services shall be provided in accordance with this
12 part.

13 “(h) STATE AGENCY ELIGIBILITY.—Any State agen-
14 cy that desires to receive a subgrant for any fiscal year
15 under section 611(f) shall demonstrate to the satisfaction
16 of the State educational agency that—

17 “(1) all children with disabilities who are par-
18 ticipating in programs and projects funded under
19 this part receive a free appropriate public education,
20 and that those children and their parents are pro-
21 vided all the rights and procedural safeguards de-
22 scribed in this part; and

23 “(2) the agency meets such other conditions of
24 this section as the Secretary determines to be appro-
25 prium.



1 “(i) DISCIPLINARY INFORMATION.—The State may
2 require that a local educational agency include in the
3 records of a child with a disability a statement of any cur-
4 rent or previous disciplinary action that has been taken
5 against the child and transmit such statement to the same
6 extent that such disciplinary information is included in,
7 and transmitted with, the student records of nondisabled
8 children. The statement may include a description of any
9 behavior engaged in by the child that required disciplinary
10 action, a description of the disciplinary action taken, and
11 any other information that is relevant to the safety of the
12 child and other individuals involved with the child. If the
13 State adopts such a policy, and the child transfers from
14 one school to another, the transmission of any of the
15 child’s records must include both the child’s current indi-
16 vidualized education program and any such statement of
17 current or previous disciplinary action that has been taken
18 against the child.”.

19 **SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
20 **INDIVIDUALIZED EDUCATION PROGRAMS,**
21 **AND EDUCATIONAL PLACEMENTS.**

22 Section 614 of the Individuals with Disabilities Edu-
23 cation Act (20 U.S.C. 1414) is amended to read as follows:



1 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
2 **INDIVIDUALIZED EDUCATION PROGRAMS,**
3 **AND EDUCATIONAL PLACEMENTS.**

4 “(a) EVALUATIONS, PARENTAL CONSENT, AND RE-
5 EVALUATIONS.—

6 “(1) INITIAL EVALUATIONS.—

7 “(A) IN GENERAL.—A State educational
8 agency, other State agency, or local educational
9 agency shall conduct a full and individual initial
10 evaluation, in accordance with this paragraph
11 and subsection (b), before the initial provision
12 of special education and related services to a
13 child with a disability under this part.

14 “(B) REQUEST FOR INITIAL EVALUA-
15 TION.—Consistent with subparagraph (D), ei-
16 ther a parent of a child, a State educational
17 agency, other State agency as appropriate, or
18 local educational agency may initiate a request
19 for an initial evaluation to determine if the
20 child is a child with a disability.

21 “(C) PROCEDURES.—Such initial evalua-
22 tion shall consist of procedures—

23 “(i) to determine whether a child is a
24 child with a disability (as defined in sec-
25 tion 602(3)); and



1 “(ii) to determine the educational
2 needs of such child.

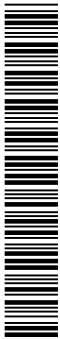
3 “(D) PARENTAL CONSENT.—

4 “(i) IN GENERAL.—

5 “(I) CONSENT FOR INITIAL
6 EVALUATION.—The agency proposing
7 to conduct an initial evaluation to de-
8 termine if the child qualifies as a child
9 with a disability as defined in section
10 602(3)(A) or 602(3)(B) shall obtain
11 informed consent from the parent of
12 such child before conducting the eval-
13 uation. Parental consent for evalua-
14 tion shall not be construed as consent
15 for placement for receipt of special
16 education and related services.

17 “(II) CONSENT FOR SERVICES.—

18 An agency that is responsible for
19 making a free appropriate public edu-
20 cation available to a child with a dis-
21 ability under this part shall seek to
22 obtain informed consent from the par-
23 ent of such child before providing spe-
24 cial education and related services to
25 the child.



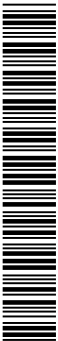
1 “(ii) ABSENCE OF CONSENT.—

2 “(I) FOR INITIAL EVALUATION.—

3 If the parent of such child does not
4 provide consent for an initial evalua-
5 tion under clause (i)(I), or the parent
6 fails to respond to a request to pro-
7 vide the consent, the local educational
8 agency may pursue the initial evalua-
9 tion of the child through the proce-
10 dures described in section 615, except
11 to the extent inconsistent with State
12 law relating to such parental consent.

13 “(II) FOR SERVICES.—If the par-
14 ent of such child does not provide con-
15 sent for services under clause (i)(II),
16 or the parent fails to respond to a re-
17 quest to provide the consent, the local
18 educational agency shall not provide
19 special education and related services
20 to the child through the procedures
21 described in section 615.

22 “(III) EFFECT ON AGENCY OBLI-
23 GATIONS.—In any case for which
24 there is an absence of consent for an
25 initial evaluation under subclause (I),



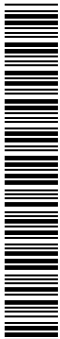
1 or for which there is an absence of
2 consent for services under subclause
3 (II)—

4 “(aa) the local educational
5 agency shall not be required to
6 convene an IEP meeting or de-
7 velop an IEP under this section
8 for the child; and

9 “(bb) the local educational
10 agency shall not be considered to
11 be in violation of any require-
12 ment under this part (including
13 the requirement to make avail-
14 able a free appropriate public
15 education to the child) with re-
16 spect to the lack of an initial
17 evaluation of the child, an IEP
18 meeting with respect to the child,
19 or the development of an IEP
20 under this section for the child.

21 “(2) REEVALUATIONS.—

22 “(A) IN GENERAL.—A local educational
23 agency shall ensure that a reevaluation of each
24 child with a disability is conducted in accord-
25 ance with subsections (b) and (c)—



1 “(i) if the local educational agency de-
2 termines that the educational needs, in-
3 cluding improved academic achievement, of
4 the child warrant a reevaluation; or

5 “(ii) if the child’s parent or teacher
6 requests a reevaluation.

7 “(B) LIMITATION.—A reevaluation con-
8 ducted under subparagraph (A) shall occur—

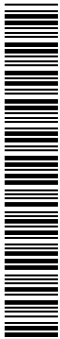
9 “(i) no more than once a year, unless
10 the parent and the local educational agen-
11 cy agree otherwise; and

12 “(ii) at least once every three years,
13 unless the parent and the local educational
14 agency agree that a reevaluation is unnec-
15 essary.

16 “(b) EVALUATION PROCEDURES.—

17 “(1) NOTICE.—The local educational agency
18 shall provide notice to the parent of a child with a
19 disability, in accordance with subsections (b)(3),
20 (b)(4), and (c) of section 615, that describes any
21 evaluation procedures such agency proposes to con-
22 duct.

23 “(2) CONDUCT OF EVALUATION.—In con-
24 ducting the evaluation, the local educational agency
25 shall—



1 “(A) use multiple up-to-date measures and
2 assessments to gather relevant functional, de-
3 velopmental, and academic information, includ-
4 ing information provided by the parent, to as-
5 sist in determining—

6 “(i) whether the child is a child with
7 a disability; and

8 “(ii) the content of the child’s individ-
9 ualized education program, including infor-
10 mation related to enabling the child to be
11 involved in and progress in the general
12 education curriculum or, for preschool chil-
13 dren, to participate in appropriate activi-
14 ties; and

15 “(B) not use any single measure or assess-
16 ment as the sole criterion for determining
17 whether a child is a child with a disability or
18 determining an appropriate educational pro-
19 gram for the child; and

20 “(C) use technically sound instruments
21 that may assess the relative contribution of cog-
22 nitive and behavioral factors, in addition to
23 physical or developmental factors.

24 “(3) ADDITIONAL REQUIREMENTS.—Each local
25 educational agency shall ensure that—



1 “(A) assessments and other evaluation
2 measures used to assess a child under this
3 section—

4 “(i) are selected and administered so
5 as not to be discriminatory on a racial or
6 cultural basis;

7 “(ii) are provided and administered,
8 to the extent practicable, in the language
9 and form most likely to yield accurate aca-
10 demic and developmental data;

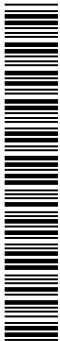
11 “(iii) are used for the purposes for
12 which the assessments or measures are
13 valid and reliable;

14 “(iv) are administered by trained and
15 knowledgeable personnel; and

16 “(v) are administered in accordance
17 with any instructions provided by the pro-
18 ducer of such tests;

19 “(B) the child is assessed in all areas of
20 suspected disability; and

21 “(C) assessment tools and strategies that
22 provide relevant information that directly as-
23 sists persons in determining the educational
24 needs of the child are provided.



1 “(4) DETERMINATION OF ELIGIBILITY AND
2 EDUCATIONAL NEED.—Upon completion of the ad-
3 ministration of assessments and other evaluation
4 measures—

5 “(A) the determination of whether the
6 child is a child with a disability as defined in
7 section 602(3) and the educational needs of the
8 child shall be made by a team of qualified pro-
9 fessionals and the parent of the child in accord-
10 ance with paragraph (5); and

11 “(B) a copy of the evaluation report and
12 the documentation of determination of eligibility
13 will be given to the parent.

14 “(5) SPECIAL RULE FOR ELIGIBILITY DETER-
15 MINATION.—In making a determination of eligibility
16 under paragraph (4)(A), a child shall not be deter-
17 mined to be a child with a disability if the deter-
18 minant factor for such determination is—

19 “(A) lack of scientifically-based instruction
20 practices and programs that contain the essen-
21 tial components of reading instruction (as that
22 term is defined in section 1208(3) of the Ele-
23 mentary and Secondary Education Act of
24 1965);

25 “(B) lack of instruction in math; or



1 “(C) limited English proficiency.

2 “(6) SPECIFIC LEARNING DISABILITIES.—

3 “(A) IN GENERAL.—Notwithstanding sec-
4 tion 607 of this Act, when determining whether
5 a child has a specific learning disability as de-
6 fined under this Act, the local educational agen-
7 cy shall not be required to take into consider-
8 ation whether the child has a severe discrepancy
9 between achievement and intellectual ability in
10 oral expression, listening comprehension, writ-
11 ten expression, basic reading skill, reading com-
12 prehension, mathematical calculation, or mathe-
13 matical reasoning.

14 “(B) ADDITIONAL AUTHORITY.—In deter-
15 mining whether a child has a specific learning
16 disability, a local educational agency may use a
17 process which determines if a child responds to
18 scientific, research-based intervention.

19 “(c) ADDITIONAL REQUIREMENTS FOR EVALUATION
20 AND REEVALUATIONS.—

21 “(1) REVIEW OF EXISTING EVALUATION
22 DATA.—As part of an initial evaluation (if appro-
23 priate) and as part of any reevaluation under this
24 section, the IEP Team described in subsection



1 (d)(1)(B) and other qualified professionals, as ap-
2 propriate, shall—

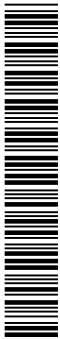
3 “(A) review existing evaluation data on the
4 child, including evaluations and information
5 provided by the parents of the child, current
6 classroom-based local or State assessments, and
7 classroom-based observations, and teacher and
8 related services providers observations; and

9 “(B) on the basis of that review, and input
10 from the child’s parents, identify what addi-
11 tional data, if any, are needed to determine—

12 “(i) whether the child is a child with
13 a disability as defined in section 602(3),
14 and the educational needs of the child, or,
15 in case of a reevaluation of a child, wheth-
16 er the child continues to have such a dis-
17 ability and such educational needs;

18 “(ii) the present levels of academic
19 achievement and related developmental
20 needs of the child;

21 “(iii) whether the child needs special
22 education and related services, or in the
23 case of a reevaluation of a child, whether
24 the child continues to need special edu-
25 cation and related services; and



1 “(iv) whether any additions or modi-
2 fications to the special education and re-
3 lated services are needed to enable the
4 child to meet the measurable annual goals
5 set out in the individualized education pro-
6 gram of the child and to participate, as ap-
7 propriate, in the general education cur-
8 riculum.

9 “(2) SOURCE OF DATA.—The local educational
10 agency shall administer such assessments and other
11 evaluation measures as may be needed to produce
12 the data identified by the IEP Team under para-
13 graph (1)(B).

14 “(3) PARENTAL CONSENT.—Each local edu-
15 cational agency shall obtain informed parental con-
16 sent, in accordance with subsection (a)(1)(D), prior
17 to conducting any reevaluation of a child with a dis-
18 ability, except that such informed parental consent
19 need not be obtained if the local educational agency
20 can demonstrate that it had taken reasonable meas-
21 ures to obtain such consent and the child’s parent
22 has failed to respond.

23 “(4) REQUIREMENTS IF ADDITIONAL DATA ARE
24 NOT NEEDED.—If the IEP Team and other qualified
25 professionals, as appropriate, determine that no ad-



1 ditional data are needed to determine whether the
2 child continues to be a child with a disability and to
3 determine the child's educational needs, the local
4 educational agency—

5 “(A) shall notify the child's parents of—

6 “(i) that determination and the rea-
7 sons for it; and

8 “(ii) the right of such parents to re-
9 quest an assessment to determine whether
10 the child continues to be a child with a dis-
11 ability and to determine the child's edu-
12 cational needs; and

13 “(B) shall not be required to conduct such
14 an assessment unless requested to by the child's
15 parents.

16 “(5) EVALUATIONS BEFORE CHANGE IN ELIGI-
17 BILITY.—A local educational agency shall evaluate a
18 child with a disability in accordance with this section
19 before determining that the child is no longer a child
20 with a disability.

21 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

22 “(1) DEFINITIONS.—As used in this title:

23 “(A) INDIVIDUALIZED EDUCATION PRO-
24 GRAM.—



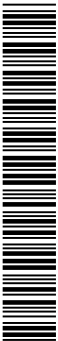
1 “(i) IN GENERAL.—The term ‘individ-
2 ualized education program’ or ‘IEP’ means
3 a written statement for each child with a
4 disability that is developed, reviewed, and
5 revised in accordance with this section and
6 that includes—

7 “(I) a statement of the child’s
8 present levels of academic achieve-
9 ment, including—

10 “(aa) how the child’s dis-
11 ability affects the child’s involve-
12 ment and progress in the general
13 education curriculum;

14 “(bb) for preschool children,
15 as appropriate, how the disability
16 affects the child’s participation in
17 appropriate activities; and

18 “(cc) until the beginning of
19 the 2005–2006 school year, a de-
20 scription of benchmarks or short-
21 term objectives, except in the
22 case of children with disabilities
23 who take alternate assessments
24 aligned to alternate achievement
25 standards, a description of



1 benchmarks or short-term objec-
2 tives shall continue to be in-
3 cluded;

4 “(II) a statement of measurable
5 annual goals designed to—

6 “(aa) meet the child’s needs
7 that result from the child’s dis-
8 ability to enable the child to be
9 involved in and make progress in
10 the general education curriculum;
11 and

12 “(bb) meet the child’s other
13 educational needs that result
14 from the child’s disability;

15 “(III) a statement of the special
16 education and related services and
17 supplementary aids and services,
18 based on peer-reviewed research to the
19 extent practicable, to be provided to
20 the child, or on behalf of the child,
21 and a statement of the program modi-
22 fications or supports for school per-
23 sonnel that will be provided for the
24 child—



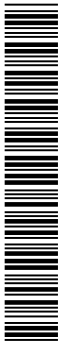
1 “(aa) to advance appro-
2 priately toward attaining the an-
3 nual goals;

4 “(bb) to be involved in and
5 make progress in the general
6 education curriculum in accord-
7 ance with subclause (I) and to
8 participate in extracurricular and
9 other nonacademic activities; and

10 “(cc) to be educated and
11 participate with other children
12 with disabilities and nondisabled
13 children in the activities de-
14 scribed in this paragraph;

15 “(IV) an explanation of the ex-
16 tent, if any, to which the child will not
17 participate with nondisabled children
18 in the regular class and in the activi-
19 ties described in subclause (III)(cc);

20 “(V)(aa) a statement of any indi-
21 vidual appropriate accommodations in
22 the administration of State or district-
23 wide assessments of student achieve-
24 ment that are necessary to measure
25 the academic achievement of the child



1 consistent with section
2 612(a)(16)(A)(ii); and

3 “(bb) if the IEP Team deter-
4 mines that the child will not partici-
5 pate in a particular State or district-
6 wide assessment of student achieve-
7 ment (or part of such an assessment),
8 a statement of—

9 “(AA) why that assessment
10 is not appropriate for the child;
11 and

12 “(BB) how the child will be
13 assessed consistent with
14 612(a)(16)(A);

15 “(VI) the projected date for the
16 beginning of the services and modi-
17 fications described in subclause (III),
18 and the anticipated frequency, loca-
19 tion, and duration of those services
20 and modifications;

21 “(VII)(aa) beginning at age 14,
22 and updated annually, a statement of
23 the transition service needs of the
24 child under the applicable components
25 of the child’s IEP that focuses on the



1 child's courses of study (such as par-
2 ticipation in advanced-placement
3 courses or a vocational education pro-
4 gram);

5 “(bb) beginning at age 16 (or
6 younger, if determined appropriate by
7 the IEP Team), a statement of need-
8 ed transition services for the child, in-
9 cluding, when appropriate, a state-
10 ment of the interagency responsibil-
11 ities or any needed linkages; and

12 “(cc) beginning at least one year
13 before the child reaches the age of
14 majority under State law, a statement
15 that the child has been informed of
16 his or her rights under this title, if
17 any, that will transfer to the child on
18 reaching the age of majority under
19 section 615(l); and

20 “(VIII) a statement of—

21 “(aa) how the child's
22 progress toward the annual goals
23 described in subclause (II) will be
24 measured; and



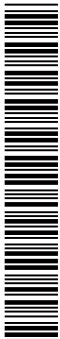
1 “(bb) how the child’s par-
2 ents will be regularly informed
3 (by such means as periodic report
4 cards), at least as often as par-
5 ents are informed of their non-
6 disabled children’s progress, of
7 the sufficiency of their child’s
8 progress toward the annual goals
9 described in subclause (II).

10 “(ii) RULE OF CONSTRUCTION.—
11 Nothing in this subparagraph shall be con-
12 strued to require—

13 “(I) that additional information
14 be included in a child’s IEP beyond
15 what is required in this subsection;
16 and

17 “(II) the IEP Team to include
18 information under one component of a
19 child’s IEP that is already contained
20 under another component of such
21 IEP.

22 “(B) INDIVIDUALIZED EDUCATION PRO-
23 GRAM TEAM.—The term ‘individualized edu-
24 cation program team’ or ‘IEP Team’ means a
25 group of individuals composed of—



1 “(i) the parents of a child with a dis-
2 ability;

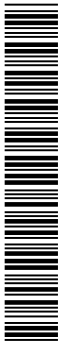
3 “(ii) a regular education teacher of
4 such child, but such teacher shall not be
5 required to attend a meeting or part of a
6 meeting of the IEP Team involving issues
7 not related to the child’s participation in
8 the regular education environment, nor
9 shall multiple regular education teachers, if
10 the child has more than one regular edu-
11 cation teacher, be required to attend a
12 meeting, or part of a meeting, of the IEP
13 team;

14 “(iii) at least one special education
15 teacher, or where appropriate, at least one
16 special education provider of such child;

17 “(iv) a representative of the local edu-
18 cational agency who—

19 “(I) is qualified to provide, or su-
20 pervise the provision of, specially de-
21 signed instruction to meet the unique
22 needs of children with disabilities;

23 “(II) is knowledgeable about the
24 general education curriculum; and



1 “(III) is knowledgeable about the
2 availability of resources of the local
3 educational agency;

4 “(v) an individual who can interpret
5 the instructional implications of evaluation
6 results, who may be a member of the team
7 described in clauses (ii) through (vi);

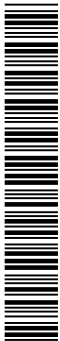
8 “(vi) at the discretion of the parent or
9 the agency, other individuals who have
10 knowledge or special expertise regarding
11 the child, including related services per-
12 sonnel as appropriate; and

13 “(vii) whenever appropriate, the child
14 with a disability.

15 “(2) REQUIREMENT THAT PROGRAM BE IN EF-
16 FECT.—

17 “(A) IN GENERAL.—At the beginning of
18 each school year, each local educational agency,
19 State educational agency, or other State agen-
20 cy, as the case may be, shall have in effect, for
21 each child with a disability in its jurisdiction,
22 an individualized education program, as defined
23 in paragraph (1)(A).

24 “(B) PROGRAM FOR CHILD AGED 3
25 THROUGH 5.—In the case of a child with a dis-



1 ability aged 3 through 5 (or, at the discretion
2 of the State educational agency, a 2 year-old
3 child with a disability who will turn age 3 dur-
4 ing the school year), the IEP Team shall con-
5 sider the individualized family service plan that
6 contains the material described in section 636,
7 and that is developed in accordance with this
8 section, and the individualized family service
9 plan may serve as the IEP of the child if using
10 that plan as the IEP is—

11 “(i) consistent with State policy; and

12 “(ii) agreed to by the agency and the
13 child’s parents.

14 “(3) DEVELOPMENT OF IEP.—

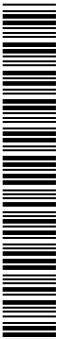
15 “(A) IN GENERAL.—In developing each
16 child’s IEP, the IEP Team, subject to subpara-
17 graph (C), shall consider—

18 “(i) the results of the initial evalua-
19 tion or most recent evaluation of the child;

20 “(ii) the academic and developmental
21 needs of the child;

22 “(iii) the strengths of the child; and

23 “(iv) the concerns of the parents for
24 enhancing the education of their child.



1 “(B) CONSIDERATION OF SPECIAL FAC-
2 TORS.—The IEP Team shall—

3 “(i) in the case of a child whose be-
4 havior impedes his or her learning or that
5 of others, consider the use of positive be-
6 havioral interventions and supports, and
7 other strategies, to address that behavior;

8 “(ii) in the case of a child with limited
9 English proficiency, consider the language
10 needs of the child as such needs relate to
11 the child’s IEP;

12 “(iii) in the case of a child who is
13 blind or visually impaired, provide for in-
14 struction in Braille and the use of Braille
15 unless the IEP Team determines, after an
16 evaluation of the child’s reading and writ-
17 ing skills, needs, and appropriate reading
18 and writing media (including an evaluation
19 of the child’s future needs for instruction
20 in Braille or the use of Braille), that in-
21 struction in Braille or the use of Braille is
22 not appropriate for the child;

23 “(iv) consider the communication
24 needs of the child, and in the case of a
25 child who is deaf or hard of hearing, con-

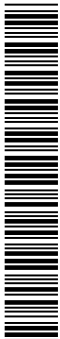


1 sider the child's language and communica-
2 tion needs, opportunities for direct commu-
3 nications with peers and professional per-
4 sonnel in the child's language and commu-
5 nication mode, academic level, and full
6 range of needs, including opportunities for
7 direct instruction in the child's language
8 and communication mode; and

9 “(v) consider whether the child needs
10 assistive technology devices and services.

11 “(C) REQUIREMENT WITH RESPECT TO
12 REGULAR EDUCATION TEACHER.—The regular
13 education teacher of the child, if a member of
14 the IEP Team pursuant to paragraph
15 (1)(B)(ii), shall, to the extent appropriate, par-
16 ticipate in the development of the IEP of the
17 child, including the determination of appro-
18 priate positive behavioral interventions and sup-
19 ports, and other strategies and the determina-
20 tion of supplementary aids and services, pro-
21 gram modifications, and support for school per-
22 sonnel consistent with paragraph (1)(A)(i)(III).

23 “(D) IEP TEAM ATTENDANCE.—The par-
24 ent of a child with a disability and the local
25 educational agency may jointly excuse any



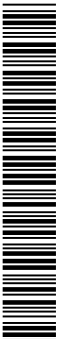
1 member of the IEP Team from attending all or
2 part of an IEP meeting if they agree that the
3 member's attendance is not necessary. The IEP
4 Team shall obtain the member's input prior to
5 an IEP meeting from which the member is ex-
6 cused.

7 “(E) AGREEMENT ON MEETING.—In mak-
8 ing changes to a child's IEP after the annual
9 IEP meeting, the parent of a child with a dis-
10 ability and the local educational agency may
11 agree not to reconvene the IEP team and in-
12 stead develop a written document to amend or
13 modify the child's current IEP.

14 “(F) CONSOLIDATION OF IEP TEAM MEET-
15 INGS.—To the extent possible, the local edu-
16 cational agency shall encourage the consolida-
17 tion of IEP Team meetings for a child.

18 “(G) AMENDMENTS.—Changes to the IEP
19 may be made either by the entire IEP Team or,
20 as provided in subparagraph (E), by amending
21 the IEP rather than by redrafting the entire
22 IEP.

23 “(4) REVIEW AND REVISION OF IEP.—



1 “(A) IN GENERAL.—The local educational
2 agency shall ensure that, subject to subpara-
3 graph (B), the IEP Team—

4 “(i) reviews the child’s IEP periodi-
5 cally, but not less than annually, to deter-
6 mine whether the annual goals for the
7 child are being achieved; and

8 “(ii) revises the IEP as appropriate to
9 address—

10 “(I) any lack of expected
11 progress toward the annual goals and
12 in the general education curriculum,
13 where appropriate;

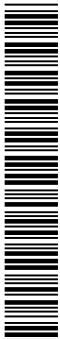
14 “(II) the results of any reevalua-
15 tion conducted under this section;

16 “(III) information about the
17 child provided to, or by, the parents,
18 as described in subsection (c)(1)(B);

19 “(IV) the child’s anticipated
20 needs; or

21 “(V) other matters.

22 “(B) REQUIREMENT WITH RESPECT TO
23 REGULAR EDUCATION TEACHER.—The regular
24 education teacher of the child, if a member of
25 the IEP Team, shall, consistent with this sec-



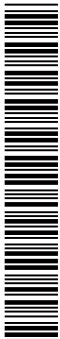
1 tion, participate in the review and revision of
2 the IEP of the child.

3 “(5) MULTI-YEAR IEP.—

4 “(A) DEVELOPMENT.—The local edu-
5 cational agency may offer to the parent of a
6 child with a disability the option of developing
7 a comprehensive multi-year IEP, not to exceed
8 3 years, that is designed to cover the natural
9 transition points for the child. With the consent
10 of the parent, the IEP Team shall develop an
11 IEP, as described in paragraphs (1) and (3),
12 that is designed to serve the child for the ap-
13 propriate multi-year period, which includes a
14 statement of—

15 “(i) measurable goals pursuant to
16 paragraph (1)(A)(i)(II), coinciding with
17 natural transition points for the child, that
18 will enable the child to be involved in and
19 make progress in the general education
20 curriculum and that will meet the child’s
21 other needs that result from the child’s
22 disability; and

23 “(ii) measurable annual goals for de-
24 termining progress toward meeting the
25 goals described in clause (i).



1 “(B) REVIEW AND REVISION OF MULTI-
2 YEAR IEP.—

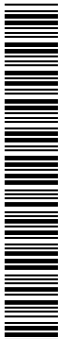
3 “(i) REQUIREMENT.—The IEP Team
4 shall conduct a review under paragraph (4)
5 of the child’s multi-year IEP at each of the
6 child’s natural transition points.

7 “(ii) STREAMLINED ANNUAL REVIEW
8 PROCESS.—In years other than a child’s
9 natural transition points, the local edu-
10 cational agency shall ensure that the IEP
11 Team—

12 “(I) provides an annual review of
13 the child’s IEP to determine the
14 child’s current levels of progress and
15 determine whether the annual goals
16 for the child are being achieved; and

17 “(II) amends the IEP, as appro-
18 priate, to enable the child to continue
19 to meet the measurable goals set out
20 in the IEP.

21 “(iii) COMPREHENSIVE REVIEW PROC-
22 ESS.—If the IEP Team determines, on the
23 basis of the review under clause (i), that
24 the child is not making sufficient progress
25 toward the goals described in subpara-

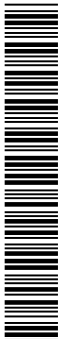


1 graph (A), the local educational agency
2 shall ensure that the IEP Team reviews
3 the IEP under paragraph (4), within 30
4 calendar days.

5 “(iv) PARENTAL PREFERENCE.—At
6 the request of the parent, the IEP Team
7 shall conduct a review under paragraph (4)
8 of the child’s multi-year IEP rather than a
9 streamlined annual review under clause
10 (ii).

11 “(C) DEFINITION.—As used in this para-
12 graph, the term ‘natural transition points’
13 means those periods that are close in time to
14 the transition of a child with a disability from
15 preschool to elementary grades, from elemen-
16 tary grades to middle or junior high school
17 grades, from middle or junior high school
18 grades to high school grades, and from high
19 school grades to post-secondary activities, but
20 in no case longer than three years.

21 “(6) FAILURE TO MEET TRANSITION OBJEC-
22 TIVES.—If a participating agency, other than the
23 local educational agency, fails to provide the transi-
24 tion services described in the IEP in accordance with
25 paragraph (1)(A)(i)(VII), the local educational agen-



1 cy shall reconvene the IEP Team to identify alter-
2 native strategies to meet the transition objectives for
3 the child set out in that program.

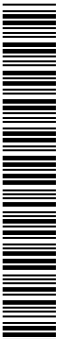
4 “(7) CHILDREN WITH DISABILITIES IN ADULT
5 PRISONS.—

6 “(A) IN GENERAL.—The following require-
7 ments do not apply to children with disabilities
8 who are convicted as adults under State law
9 and incarcerated in adult prisons:

10 “(i) The requirements contained in
11 section 612(a)(16) and paragraph
12 (1)(A)(i)(V) of this subsection (relating to
13 participation of children with disabilities in
14 general assessments).

15 “(ii) The requirements of items (aa)
16 and (bb) of paragraph (1)(A)(i)(VII) of
17 this subsection (relating to transition plan-
18 ning and transition services), do not apply
19 with respect to such children whose eligi-
20 bility under this part will end, because of
21 their age, before they will be released from
22 prison.

23 “(B) ADDITIONAL REQUIREMENT.—If a
24 child with a disability is convicted as an adult
25 under State law and incarcerated in an adult



1 prison, the child's IEP Team may modify the
2 child's IEP or placement notwithstanding the
3 requirements of sections 612(a)(5)(A) and
4 614(d)(1)(A) if the State has demonstrated a
5 bona fide security or compelling penological in-
6 terest that cannot otherwise be accommodated.

7 “(e) EDUCATIONAL PLACEMENTS.—Each local edu-
8 cational agency or State educational agency shall ensure
9 that the parents of each child with a disability are mem-
10 bers of any group that makes decisions on the educational
11 placement of their child.

12 “(f) ALTERNATIVE MEANS OF MEETING PARTICIPA-
13 TION.—When conducting IEP team meetings and place-
14 ment meetings pursuant to this section and 615, the par-
15 ent of a child with a disability and a local educational
16 agency may agree to use alternative means of meeting par-
17 ticipation, such as video conferences and conference
18 calls.”.

19 **SEC. 205. PROCEDURAL SAFEGUARDS.**

20 (a) ESTABLISHMENT OF PROCEDURES.—Section
21 615(a) of the Individuals with Disabilities Education Act
22 (20 U.S.C. 1415(a)) is amended to read as follows:

23 “(a) ESTABLISHMENT OF PROCEDURES.—Any State
24 educational agency, State agency, or local educational
25 agency that receives assistance under this part shall estab-



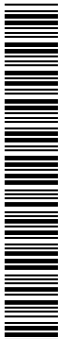
lish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.”.

(b) TYPES OF PROCEDURES.—Section 615(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(b)) is amended to read as follows:

“(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

“(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain as appropriate an independent educational evaluation of the child;

“(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any



1 other agency that is involved in the education or
2 care of the child) to act as a surrogate for the par-
3 ents;

4 “(3) written prior notice to the parents of the
5 child whenever such agency—

6 “(A) proposes to initiate or change; or

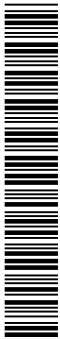
7 “(B) refuses to initiate or change;
8 the identification, evaluation, or educational place-
9 ment of the child, in accordance with subsection (c),
10 or the provision of a free appropriate public edu-
11 cation to the child;

12 “(4) procedures designed to ensure that the no-
13 tice required by paragraph (3) is in the native lan-
14 guage of the parents, unless it clearly is not feasible
15 to do so;

16 “(5) an opportunity for mediation and vol-
17 untary binding arbitration, in accordance with sub-
18 section (e);

19 “(6) an opportunity to present complaints—

20 “(A) with respect to any matter relating to
21 the identification, evaluation, or educational
22 placement of the child, or the provision of a free
23 appropriate public education to such child; and



1 “(B) which set forth a violation that oc-
2 curred not more than one year before the com-
3 plaint is filed;

4 “(7)(A) procedures that require the parent of a
5 child with a disability, or the attorney representing
6 the child, to provide notice (which shall remain con-
7 fidential)—

8 “(i) to the local educational agency or
9 State educational agency (if the State edu-
10 cational agency is the direct provider of services
11 pursuant to section 613(g)), in the complaint
12 filed under paragraph (6); and

13 “(ii) that shall include—

14 “(I) the name of the child, the ad-
15 dress of the residence of the child (or, in
16 the case of a homeless child or youth
17 (within the meaning of section 725(2) of
18 the McKinney-Vento Homeless Assistance
19 Act (42 U.S.C. 11434a(2)), available con-
20 tact information for the child), and the
21 name of the school the child is attending;

22 “(II) a description of the specific
23 issues regarding the nature of the problem
24 of the child relating to such proposed initi-



1 ation or change, including facts relating to
2 such problem; and

3 “(III) a proposed resolution of the
4 problem to the extent known and available
5 to the parents at the time;

6 “(B) a requirement that a parent of a child
7 with a disability may not have a due process hearing
8 until the parent, or the attorney representing the
9 child, files a notice that meets the requirements of
10 this paragraph; and

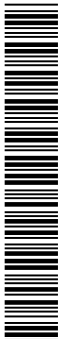
11 “(8) procedures that require the State edu-
12 cational agency to develop a model form to assist
13 parents in filing a complaint in accordance with
14 paragraph (7).”.

15 (c) CONTENT OF PRIOR WRITTEN NOTICE.—Section
16 615(c) of the Individuals with Disabilities Education Act
17 (20 U.S.C. 1415(c)) is amended to read as follows:

18 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—The
19 notice required by subsection (b)(3) shall include—

20 “(1) a description of the action proposed or re-
21 fused by the agency;

22 “(2) an explanation of why the agency proposes
23 or refuses to take the action and a description of
24 each evaluation procedure, test, record, or report the



1 agency used as a basis for the proposed or refused
2 action;

3 “(3) a statement that the parents of a child
4 with a disability have protection under the proce-
5 dural safeguards of this part and, if this notice is
6 not an initial referral for evaluation, the means by
7 which a copy of a description of the procedural safe-
8 guards can be obtained; and

9 “(4) sources for parents to contact to obtain as-
10 sistance in understanding the provisions of this
11 part.”.

12 (d) PROCEDURAL SAFEGUARDS NOTICE.—Section
13 615(d) of the Individuals with Disabilities Education Act
14 (20 U.S.C. 1415(d)) is amended to read as follows:

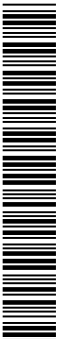
15 “(d) PROCEDURAL SAFEGUARDS NOTICE.—

16 “(1) IN GENERAL.—A copy of the procedural
17 safeguards available to the parents of a child with
18 a disability shall be given to the parents, at a
19 minimum—

20 “(A) upon initial referral or parental re-
21 quest for evaluation;

22 “(B) annually, at the beginning of the
23 school year; and

24 “(C) upon written request by a parent.



1 “(2) CONTENTS.—The procedural safeguards
2 notice shall include a description of the procedural
3 safeguards, written in the native language of the
4 parents, unless it clearly is not feasible to do so, and
5 written in an easily understandable manner, avail-
6 able under this section and under regulations pro-
7 mulgated by the Secretary relating to—

8 “(A) independent educational evaluation;

9 “(B) prior written notice;

10 “(C) parental consent;

11 “(D) access to educational records;

12 “(E) opportunity to present complaints;

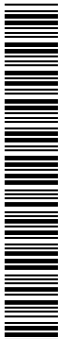
13 “(F) the child’s placement during pend-
14 ency of due process proceedings;

15 “(G) procedures for students who are sub-
16 ject to placement in an interim alternative edu-
17 cational setting;

18 “(H) requirements for unilateral placement
19 by parents of children in private schools at pub-
20 lic expense;

21 “(I) mediation, early dispute resolution,
22 and voluntary binding arbitration;

23 “(J) due process hearings, including re-
24 quirements for disclosure of evaluation results
25 and recommendations;



1 “(K) civil actions; and

2 “(L) attorneys’ fees.”.

3 (e) MEDIATION AND VOLUNTARY BINDING ARBITRA-
4 TION.—Section 615(e) of the Individuals with Disabilities
5 Education Act (20 U.S.C. 1415(e)) is amended to read
6 as follows:

7 “(e) MEDIATION AND VOLUNTARY BINDING ARBI-
8 TRATION.—

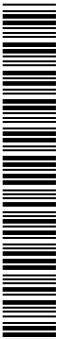
9 “(1) MEDIATION.—

10 “(A) IN GENERAL.—Any State educational
11 agency or local educational agency that receives
12 assistance under this part shall ensure that pro-
13 cedures are established and implemented to
14 allow parties to disputes involving any matter,
15 including matters arising prior to the filing of
16 a complaint pursuant to subsection (b)(6), to
17 resolve such disputes through a mediation proc-
18 ess.

19 “(B) REQUIREMENTS.—Such procedures
20 shall meet the following requirements:

21 “(i) The procedures shall ensure that
22 the mediation process—

23 “(I) is voluntary on the part of
24 the parties;



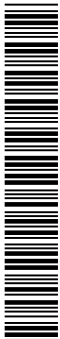
1 “(II) is not used to deny or delay
2 a parent’s right to a due process hear-
3 ing under subsection (f), or to deny
4 any other rights afforded under this
5 part; and

6 “(III) is conducted by a qualified
7 and impartial mediator who is trained
8 in effective mediation techniques.

9 “(ii) A local educational agency or a
10 State agency may establish procedures to
11 offer to parents who choose not to use the
12 mediation process, an opportunity to meet,
13 at a time and location convenient to the
14 parents, with a disinterested party who is
15 under contract with—

16 “(I) a parent and community
17 training and information center in the
18 State established under section 672;
19 or

20 “(II) an appropriate alternative
21 dispute resolution entity;
22 to encourage the use, and explain the bene-
23 fits, of the mediation process to the par-
24 ents.



1 “(iii) The State shall maintain a list
2 of individuals who are qualified mediators
3 and knowledgeable in laws and regulations
4 relating to the provision of special edu-
5 cation and related services.

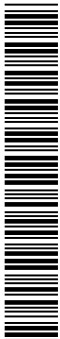
6 “(iv) The State shall bear the cost of
7 the mediation process, including the costs
8 of meetings described in clause (ii).

9 “(v) Each session in the mediation
10 process shall be scheduled in a timely man-
11 ner and shall be held in a location that is
12 convenient to the parties to the dispute.

13 “(vi) An agreement reached by the
14 parties to the dispute in the mediation
15 process shall be set forth in a written me-
16 diation agreement.

17 “(vii) Discussions that occur during
18 the mediation process shall be confidential
19 and may not be used as evidence in any
20 subsequent due process hearings or civil
21 proceedings and the parties to the medi-
22 ation process may be required to sign a
23 confidentiality pledge prior to the com-
24 mencement of such process.

25 “(2) VOLUNTARY BINDING ARBITRATION.—



1 “(A) IN GENERAL.—A State educational
2 agency that receives assistance under this part
3 shall ensure that procedures are established and
4 implemented to allow parties to disputes involv-
5 ing any matter described in subsection (b)(6) to
6 resolve such disputes through voluntary binding
7 arbitration, which shall be available when a
8 hearing is requested under subsection (f) or (j).

9 “(B) REQUIREMENTS.—Such procedures
10 shall meet the following requirements:

11 “(i) The procedures shall ensure that
12 the voluntary binding arbitration process—

13 “(I) is voluntarily and knowingly
14 agreed to in writing by the parties;
15 and

16 “(II) is conducted by a qualified
17 and impartial arbitrator.

18 “(ii) A local educational agency or a
19 State agency shall ensure that parents who
20 choose to use voluntary binding arbitration
21 understand that the process is in lieu of a
22 due process hearing under subsection (f) or
23 (j) and that the decision made by the arbi-
24 trator is final, unless there is fraud by a



1 party or the arbitrator or misconduct on
2 the part of the arbitrator.

3 “(iii) The parties shall jointly agree to
4 use an arbitrator from a list that the State
5 shall maintain of individuals who are quali-
6 fied arbitrators and knowledgeable in laws
7 and regulations relating to the provision of
8 special education and related services.

9 “(iv) The arbitration shall be con-
10 ducted according to State law on arbitra-
11 tion or, if there is no such applicable State
12 law, in a manner consistent with the Re-
13 vised Uniform Arbitration Act.

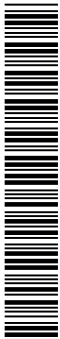
14 “(v) The voluntary binding arbitration
15 shall be scheduled in a timely manner and
16 shall be held in a location that is conven-
17 ient to the parties to the dispute.”.

18 (f) IMPARTIAL DUE PROCESS HEARING.—Section
19 615(f) of the Individuals with Disabilities Education Act
20 (20 U.S.C. 1415(f)) is amended to read as follows:

21 “(f) IMPARTIAL DUE PROCESS HEARING.—

22 “(1) IN GENERAL.—

23 “(A) ACCESS TO HEARING.—Whenever a
24 complaint has been received under subsection
25 (b)(6) or (j) of this section, the parents or the



1 local educational agency involved in such com-
2 plaint shall have an opportunity for an impar-
3 tial due process hearing, which shall be con-
4 ducted by the State educational agency.

5 “(B) RESOLUTION SESSION.—

6 “(i) IN GENERAL.—Prior to the op-
7 portunity for an impartial due process
8 hearing under subparagraph (A), the local
9 educational agency shall convene a meeting
10 with the parents—

11 “(I) within 15 days of receiving
12 notice of the parents’ complaint; and

13 “(II) where the parents of the
14 child discuss their complaint, and the
15 specific issues that form the basis of
16 the complaint, and the local edu-
17 cational agency is provided the oppor-
18 tunity to resolve the complaint;
19 unless the parents and the local edu-
20 cational agency agree in writing to waive
21 such meeting.

22 “(ii) DUE PROCESS HEARING.—If the
23 local educational agency has not resolved
24 the complaint to the satisfaction of the
25 parents within 30 days of the receipt of



1 the complaint, the due process hearing
2 shall occur in accordance with subpara-
3 graph (A).

4 “(iii) DEFINITION OF MEETING.—A
5 meeting conducted pursuant to clause (i)
6 shall not be considered—

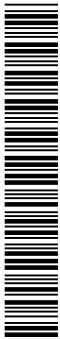
7 “(I) a meeting convened as a re-
8 sult of an administrative hearing or
9 judicial action; or

10 “(II) an administrative hearing
11 or judicial action for purposes of sub-
12 section (h)(3).

13 “(2) DISCLOSURE OF EVALUATIONS AND REC-
14 OMMENDATIONS.—

15 “(A) IN GENERAL.—At least 5 business
16 days prior to a hearing conducted pursuant to
17 paragraph (1), each party shall disclose to all
18 other parties all evaluations completed by that
19 date and recommendations based on the offer-
20 ing party’s evaluations that the party intends to
21 use at the hearing.

22 “(B) FAILURE TO DISCLOSE.—A hearing
23 officer may bar any party that fails to comply
24 with subparagraph (A) from introducing the



1 relevant evaluation or recommendation at the
2 hearing without the consent of the other party.

3 “(3) LIMITATION ON HEARING.—

4 “(A) HEARING OFFICER.—A hearing con-
5 ducted pursuant to paragraph (1)(A) may not
6 be conducted by—

7 “(i) an employee of the State educational
8 agency or the local educational agency involved
9 in the education or care of the child; or

10 “(ii) any person having a personal or pro-
11 fessional interest that would conflict with his or
12 her objectivity in the hearing.

13 “(B) SUBJECT MATTER OF HEARING.—
14 The parents of the child shall not be allowed to
15 raise issues at the due process hearing that
16 were not raised in the complaint or discussed
17 during the meeting conducted pursuant to sub-
18 paragraph (1)(B), unless the local educational
19 agency agrees otherwise.

20 “(C) DECISION OF HEARING OFFICER.—A
21 decision made by a hearing officer must be
22 based on a determination of whether or not the
23 child received a free appropriate public edu-
24 cation.”.



1 (g) APPEAL.—Section 615 of the Individuals with
2 Disabilities Education Act (20 U.S.C. 1415) is amended
3 by striking subsection (g).

4 (h) SAFEGUARDS.—Section 615 of the Individuals
5 with Disabilities Education Act (20 U.S.C. 1415) is
6 amended—

7 (1) by redesignating subsection (h) as sub-
8 section (g); and

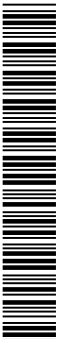
9 (2) by amending subsection (g) (as redesign-
10 nated) to read as follows:

11 “(g) SAFEGUARDS.—Any party to a hearing con-
12 ducted pursuant to subsection (f) or (j) shall be
13 accorded—

14 “(1) the right to be represented by counsel and
15 by non-attorney advocates and to be accompanied
16 and advised by individuals with special knowledge or
17 training with respect to the problems of children
18 with disabilities;

19 “(2) the right to present evidence and confront,
20 cross-examine, and compel the attendance of wit-
21 nesses;

22 “(3) the right to a written, or, at the option of
23 the parents, electronic verbatim record of such hear-
24 ing; and



1 “(4) the right to written, or, at the option of
2 the parents, electronic findings of fact and decisions
3 (which findings and decisions shall be made available
4 to the public consistent with the requirements of sec-
5 tion 617(d)) (relating to the confidentiality of data,
6 information, and records).”.

7 (i) ADMINISTRATIVE PROCEDURES.—Section 615 of
8 the Individuals with Disabilities Education Act (20 U.S.C.
9 1415) is amended—

10 (1) by redesignating subsection (i) as subsection
11 (h); and

12 (2) in subsection (h) (as redesignated)—

13 (A) in paragraph (1)—

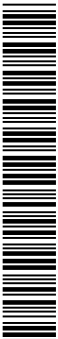
14 (i) by striking “IN GENERAL.—” and
15 all that follows through “A decision made
16 in a hearing” and inserting “IN GEN-
17 ERAL.—A decision made in a hearing”;

18 (ii) by striking “(k)” and inserting
19 “(j)”;

20 (iii) by striking “subsection (g) and”;
21 and

22 (iv) by striking subparagraph (B);
23 and

24 (B) in paragraph (2)(A), by striking “sub-
25 section (f) or (k) who does not have the right



1 to an appeal under subsection (g)” and insert-
2 ing “subsection (f) or (j)”.

3 (j) MAINTENANCE OF CURRENT EDUCATIONAL
4 PLACEMENT.—Section 615 of the Individuals with Dis-
5 abilities Education Act (20 U.S.C. 1415) is amended—

6 (1) by redesignating subsection (j) as sub-
7 section (i); and

8 (2) by amending subsection (i) (as redesign-
9 nated) to read as follows:

10 “(i) MAINTENANCE OF CURRENT EDUCATIONAL
11 PLACEMENT.—Except as provided in subsection (j)(4),
12 during the pendency of any proceedings conducted pursu-
13 ant to this section, unless the State or local educational
14 agency and the parents otherwise agree, the child shall
15 remain in the then-current educational placement of such
16 child, or, if applying for initial admission to a public
17 school, shall, with the consent of the parents, be placed
18 in the public school program until all such proceedings
19 have been completed.”.

20 (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL
21 SETTING.—Section 615 of the Individuals with Disabil-
22 ities Education Act (20 U.S.C. 1415) is amended—

23 (1) by redesignating subsection (k) as sub-
24 section (j); and



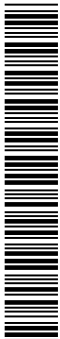
1 (2) by amending subsection (j) (as redesignig-
2 nated) to read as follows:

3 “(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL
4 SETTING.—

5 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

6 “(A) IN GENERAL.—School personnel
7 under this section may order a change in the
8 placement of a child with a disability who vio-
9 lates a code of student conduct policy to an ap-
10 propriate interim alternative educational set-
11 ting, another setting, or suspension, for not
12 more than 10 school days (to the extent such
13 alternatives would be applied to children with-
14 out disabilities).

15 “(B) ADDITIONAL AUTHORITY.—Subject
16 to subparagraph (C), and notwithstanding any
17 other provision of this Act, school personnel
18 under this section may order a change in the
19 placement of a child with a disability who vio-
20 lates a code of student conduct policy to an ap-
21 propriate interim alternative educational setting
22 selected so as to enable the child to continue to
23 participate in the general education curriculum,
24 although in another setting, and to progress to-
25 ward meeting the goals set out in the child’s

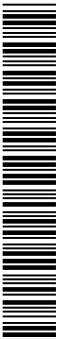


1 IEP, for not more than 45 school days (to the
2 extent such alternative and such duration would
3 be applied to children without disabilities, and
4 which may include consideration of unique cir-
5 cumstances on a case-by-case basis), except that
6 the change in placement may last beyond 45
7 school days if required by State law or regula-
8 tion for the violation in question, to ensure the
9 safety and appropriate educational atmosphere
10 in the schools under the jurisdiction of the local
11 educational agency.

12 “(C) SERVICES.—A child with a disability
13 who is removed from the child’s current place-
14 ment under subparagraph (B) shall—

15 “(i) continue to receive educational
16 services selected so as to enable the child
17 to continue to participate in the general
18 education curriculum, although in another
19 setting, and to progress toward meeting
20 the goals set out in the child’s IEP; and

21 “(ii) continue to receive behavioral
22 intervention services designed to address
23 the behavior violation so that it does not
24 recur.



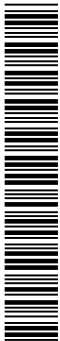
1 “(2) DETERMINATION OF SETTING.—The alter-
2 native educational setting described in paragraph
3 (1)(B) shall be determined by the IEP Team.

4 “(3) PARENT APPEAL.—

5 “(A) IN GENERAL.—If the parent of a
6 child with a disability disagrees with any deci-
7 sion regarding placement or punishment under
8 this section, the parent may request a hearing.

9 “(B) AUTHORITY OF HEARING OFFICER.—
10 If a parent of a child with a disability disagrees
11 with a decision regarding placement of the child
12 or punishment of the child under this section,
13 including duration of the punishment, the hear-
14 ing officer may determine whether the decision
15 regarding such action was appropriate.

16 “(4) PLACEMENT DURING APPEALS.—When a
17 parent requests a hearing regarding a disciplinary
18 action described in paragraph (1)(B) to challenge
19 the interim alternative educational setting or the vio-
20 lation of the code of student conduct policy, the child
21 shall remain in the interim alternative educational
22 setting pending the decision of the hearing officer or
23 until the expiration of the time period provided for
24 in paragraph (1)(B), whichever occurs first, unless



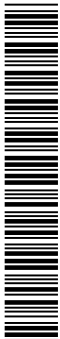
1 the parent and the State or local educational agency
2 agree otherwise.

3 “(5) PROTECTIONS FOR CHILDREN NOT YET
4 ELIGIBLE FOR SPECIAL EDUCATION AND RELATED
5 SERVICES.—

6 “(A) IN GENERAL.—A child who has not
7 been determined to be eligible for special edu-
8 cation and related services under this part and
9 who has engaged in behavior that violates a
10 code of student conduct policy, may assert any
11 of the protections provided for in this part if
12 the local educational agency had knowledge (as
13 determined in accordance with this paragraph)
14 that the child was a child with a disability be-
15 fore the behavior that precipitated the discipli-
16 nary action occurred.

17 “(B) BASIS OF KNOWLEDGE.—A local edu-
18 cational agency shall be deemed to have knowl-
19 edge that a child is a child with a disability if,
20 before the behavior that precipitated the dis-
21 ciplinary action occurred—

22 “(i) the parent of the child has ex-
23 pressed concern in writing (unless the par-
24 ent is illiterate or has a disability that pre-
25 vents compliance with the requirements



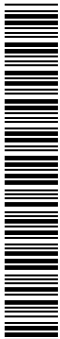
1 contained in this clause) to personnel of
2 the appropriate educational agency that
3 the child is in need of special education
4 and related services;

5 “(ii) the parent of the child has re-
6 quested an evaluation of the child pursuant
7 to section 614; or

8 “(iii) the teacher of the child, or other
9 personnel of the local educational agency,
10 has expressed concern in writing about the
11 behavior or performance of the child to the
12 director of special education of such agen-
13 cy or to other personnel of the agency.

14 “(C) CONDITIONS THAT APPLY IF NO
15 BASIS OF KNOWLEDGE.—

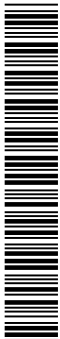
16 “(i) IN GENERAL.—If a local edu-
17 cational agency does not have knowledge
18 that a child is a child with a disability (in
19 accordance with subparagraph (B)) prior
20 to taking disciplinary measures against the
21 child, the child may be subjected to dis-
22 ciplinary measures applied to children
23 without disabilities who engaged in com-
24 parable behaviors consistent with clause
25 (ii).



1 “(ii) LIMITATIONS.—If a request is
2 made for an evaluation of a child during
3 the time period in which the child is sub-
4 jected to disciplinary measures under para-
5 graph (1) or (2), the evaluation shall be
6 conducted in an expedited manner. If the
7 child is determined to be a child with a dis-
8 ability, taking into consideration informa-
9 tion from the evaluation conducted by the
10 agency and information provided by the
11 parents, the agency shall provide special
12 education and related services in accord-
13 ance with this part, except that, pending
14 the results of the evaluation, the child shall
15 remain in the educational placement deter-
16 mined by school authorities.

17 “(6) REFERRAL TO AND ACTION BY LAW EN-
18 FORCEMENT AND JUDICIAL AUTHORITIES.—

19 “(A) IN GENERAL.—Nothing in this part
20 shall be construed to prohibit an agency from
21 reporting a crime committed by a child with a
22 disability to appropriate authorities or to pre-
23 vent State law enforcement and judicial au-
24 thorities from exercising their responsibilities
25 with regard to the application of Federal and



1 State law to crimes committed by a child with
2 a disability.

3 “(B) TRANSMISSION OF RECORDS.—An
4 agency reporting a crime committed by a child
5 with a disability shall ensure that copies of the
6 special education and disciplinary records of the
7 child are transmitted for consideration by the
8 appropriate authorities to whom it reports the
9 crime.”.

10 (l) RULE OF CONSTRUCTION.—Section 615 of the In-
11 dividuals with Disabilities Education Act (20 U.S.C.
12 1415) is amended by redesignating subsection (l) as sub-
13 section (k).

14 (m) RULE OF CONSTRUCTION.—Section 615 of the
15 Individuals with Disabilities Education Act (20 U.S.C.
16 1415) is amended—

17 (1) by redesignating subsection (m) as sub-
18 section (l); and

19 (2) by amending subsection (l) (as redesign-
20 nated) to read as follows:

21 “(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF
22 MAJORITY.—

23 “(1) IN GENERAL.—A State that receives
24 amounts from a grant under this part may provide
25 that, when a child with a disability reaches the age



1 of majority under State law (except for a child with
2 a disability who has been determined to be incom-
3 petent under State law)—

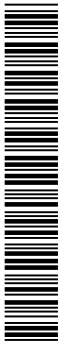
4 “(A) the public agency shall provide any
5 notice required by this section to both the indi-
6 vidual and the parents;

7 “(B) all other rights accorded to parents
8 under this part transfer to the child;

9 “(C) the agency shall notify the individual
10 and the parents of the transfer of rights; and

11 “(D) all rights accorded to parents under
12 this part transfer to children who are incarcer-
13 ated in an adult or juvenile Federal, State, or
14 local correctional institution.

15 “(2) SPECIAL RULE.—If, under State law, a
16 child with a disability who has reached the age of
17 majority under State law, who has not been deter-
18 mined to be incompetent, but who is determined not
19 to have the ability to provide informed consent with
20 respect to the educational program of the child, the
21 State shall establish procedures for appointing the
22 parent of the child, or if the parent is not available,
23 another appropriate individual, to represent the edu-
24 cational interests of the child throughout the period
25 of eligibility of the child under this part.”.



1 **SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING,**
2 **AND JUDICIAL REVIEW.**

3 Section 616 of the Individuals with Disabilities Edu-
4 cation Act (20 U.S.C. 1416) is amended—

5 (1) in the heading to read as follows:

6 **“SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING,**
7 **AND JUDICIAL REVIEW.”;**

8 (2) by redesignating subsections (a) through (c)
9 as subsections (e) through (g), respectively; and

10 (3) by inserting before subsection (e) (as redes-
11 ignated) the following:

12 **“(a) FEDERAL MONITORING.—**

13 **“(1) IN GENERAL.—**The Secretary shall mon-
14 itor implementation of this Act.

15 **“(2) FOCUSED MONITORING.—**The primary
16 focus of Federal monitoring activities shall be to im-
17 prove educational results for all children with dis-
18 abilities, while ensuring compliance with program re-
19 quirements, with a particular emphasis on those re-
20 quirements that are most closely related to improv-
21 ing educational results for children with disabilities.

22 **“(b) INDICATORS.—**

23 **“(1) REQUIRED INDICATORS.—**The Secretary
24 shall examine relevant information and data related
25 to States’ progress on improving educational results
26 for children with disabilities by reviewing—



1 “(A) achievement results of children with
2 disabilities on State or district assessments, in-
3 cluding children with disabilities taking State or
4 district assessments with appropriate accom-
5 modations;

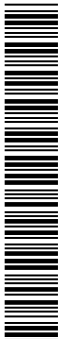
6 “(B) achievement results of children with
7 disabilities on State or district alternate assess-
8 ments;

9 “(C) graduation rates of children with dis-
10 abilities and graduation rates of children with
11 disabilities as compared to graduation rates of
12 nondisabled children; and

13 “(D) dropout rates for children with dis-
14 abilities and dropout rates of children with dis-
15 abilities as compared to dropout rates of non-
16 disabled children.

17 “(2) PERMISSIVE INDICATORS.—The Secretary
18 also may establish other priorities for review of rel-
19 evant information and data, including data provided
20 by States under section 618, and also including the
21 following:

22 “(A) PRIORITIES FOR THIS PART.—The
23 Secretary may give priority to monitoring on
24 the following areas under this part:



1 “(i) Provision of educational services
2 in the least restrictive environment,
3 including—

4 “(I) education of children with
5 disabilities with non-disabled peers to
6 the maximum extent appropriate;

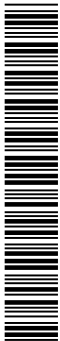
7 “(II) provision of appropriate
8 special education and related services;

9 “(III) access to the general cur-
10 riculum with appropriate accommoda-
11 tions;

12 “(IV) provision of appropriate
13 services to students whose behavior
14 impedes learning; and

15 “(V) participation and perform-
16 ance of children with disabilities on
17 State and local assessments, including
18 alternate assessments.

19 “(ii) Secondary transition, including
20 the extent to which youth exiting special
21 education are prepared for post-secondary
22 education, employment, and adult life, and
23 are participants in appropriate transition
24 planning while in school.



1 “(iii) State exercise of general super-
2 visory authority, including effective moni-
3 toring and use of complaint resolution, me-
4 diation, and voluntary binding arbitration.

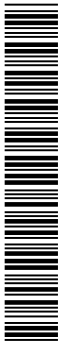
5 “(B) PRIORITIES FOR PART C.—The Sec-
6 retary may give priority to monitoring on the
7 following areas under part C:

8 “(i) Child find and public awareness
9 to support the identification, evaluation
10 and assessment of all eligible infants and
11 toddlers, including the provision of cul-
12 turally relevant materials to inform and
13 promote referral.

14 “(ii) Provision of early intervention
15 services in natural environments, evalua-
16 tion and assessment to identify child needs
17 and family needs related to enhancing the
18 development of the child, and provision of
19 appropriate early intervention services in
20 natural environments to meet the needs of
21 individual children.

22 “(iii) Effective early childhood transi-
23 tion to services under this part.

24 “(iv) State exercise of general super-
25 visory authority, including—



1 “(I) effective monitoring and use
2 of other mechanisms such as com-
3 plaint resolution;

4 “(II) implementation of medi-
5 ation and voluntary binding arbitra-
6 tion; and

7 “(III) coordination of parent and
8 child protections.

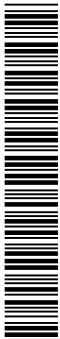
9 “(3) DATA COLLECTION AND ANALYSIS.—The
10 Secretary shall review the data collection and anal-
11 ysis capacity of States to ensure that data and infor-
12 mation is collected, analyzed, and accurately re-
13 ported to the Secretary. The Secretary may provide
14 technical assistance to improve the capacity of
15 States to meet data requirements.

16 “(c) ADDITIONAL PRIORITIES.—

17 “(1) IN GENERAL.—The Secretary may develop
18 additional priorities for monitoring the effective im-
19 plementation of this Act.

20 “(2) PUBLIC COMMENT.—The Secretary shall
21 provide a public comment period of at least 30 days
22 on any additional priority proposed under this part
23 or part C.

24 “(3) DATE OF ENFORCEMENT.—The Secretary
25 may not begin to enforce a new priority until one



1 year from the date of publication of the priority in
2 the Federal Register as a final rule.

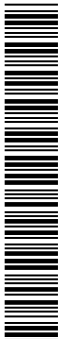
3 “(d) COMPLIANCE.—

4 “(1) IN GENERAL.—The Secretary shall review
5 State data to determine whether the State is in com-
6 pliance with the provisions of this Act.

7 “(2) LACK OF PROGRESS.—If after examining
8 data, as provided in section (b) or (c), the Secretary
9 determines that a State is not making satisfactory
10 progress in improving educational results for chil-
11 dren with disabilities, the Secretary shall take one or
12 more of the following actions:

13 “(A) Advise the State of available sources
14 of technical assistance that may help the State
15 address the lack of progress, which may include
16 assistance from the Office of Special Education
17 Programs, other offices of the Department of
18 Education, other Federal agencies, technical as-
19 sistance providers approved by the Secretary,
20 and other federally-funded non-profit agencies.
21 Such technical assistance may include—

22 “(i) the provision of advice by experts
23 to address the areas of non-compliance, in-
24 cluding explicit plans for ensuring compli-
25 ance within a specified period of time;



1 “(ii) assistance in identifying and im-
2 plementing professional development, in-
3 structional strategies, and methods of in-
4 struction that are based on scientifically
5 based research;

6 “(iii) designating and using distin-
7 guished superintendents, principals, special
8 education administrators, regular edu-
9 cation teachers, and special education
10 teachers to provide advice, technical assist-
11 ance, and support; and

12 “(iv) devising additional approaches to
13 providing technical assistance, such as col-
14 laborating with institutions of higher edu-
15 cation, educational service agencies, na-
16 tional centers of technical assistance sup-
17 ported under part D, and private providers
18 of scientifically based technical assistance.

19 “(B) Direct the use of State level funds for
20 technical assistance on the area or areas of un-
21 satisfactory performance.

22 “(C) Each year withhold at least 20 but no
23 more than 50 percent of the State’s funds
24 under section 611(e), after providing the State
25 the opportunity to show cause why the with-



1 holding should not occur, until the Secretary
2 determines that sufficient progress has been
3 made in improving educational results for chil-
4 dren with disabilities.

5 “(3) SUBSTANTIAL NON-COMPLIANCE.—

6 “(A) INITIAL DETERMINATION.—When the
7 Secretary determines that a State is not in sub-
8 stantial compliance with any provision of this
9 part, the Secretary shall take one or more of
10 the following actions:

11 “(i) Request that the State prepare a
12 corrective action plan or improvement plan
13 if the Secretary determines that the State
14 should be able to correct the problem with-
15 in one year.

16 “(ii) Identify the State as a high-risk
17 grantee and impose special conditions on
18 the State’s grant.

19 “(iii) Require the State to enter into
20 a compliance agreement under section 457
21 of the General Education Provisions Act, if
22 the Secretary has reason to believe that
23 the State cannot correct the problem with-
24 in one year.



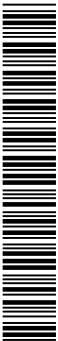
1 “(iv) Recovery of funds under section
2 452 of the General Education Provisions
3 Act.

4 “(v)(I) Withholding of payments
5 under subsection (e).

6 “(II) Pending the outcome of any
7 hearing to withhold payments under sub-
8 section (e), the Secretary may suspend
9 payments to a recipient, suspend the au-
10 thority of the recipient to obligate Federal
11 funds, or both, after such recipient has
12 been given reasonable notice and an oppor-
13 tunity to show cause why future payments
14 or authority to obligate Federal funds
15 should not be suspended.

16 “(B) CONTINUED NON-COMPLIANCE.—

17 “(i) SECRETARIAL ACTION.—If the
18 Secretary has imposed special conditions
19 on a grant under subparagraph (A)(ii) for
20 substantially the same compliance prob-
21 lems for three consecutive years, and at
22 the end of the third year the State has not
23 demonstrated that the violation has been
24 corrected to the satisfaction of the Sec-
25 retary, the Secretary shall take such addi-



1 tional enforcement actions as the Secretary
2 determines to be appropriate from among
3 those actions specified in clauses (iii)
4 through (v) of subparagraph (A).

5 “(ii) REPORT TO CONGRESS.—The
6 Secretary shall report to Congress within
7 30 days of taking enforcement action pur-
8 suant to this paragraph on the specific ac-
9 tion taken and the reasons why enforce-
10 ment action was taken.”.

11 **SEC. 207. ADMINISTRATION.**

12 Section 617 of the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1417) is amended to read as follows:

14 **“SEC. 617. ADMINISTRATION.**

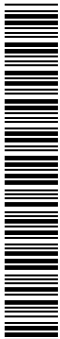
15 “(a) RESPONSIBILITIES OF SECRETARY.—In car-
16 rying out this part, the Secretary shall—

17 “(1) cooperate with, and (directly or by grant
18 or contract) furnish technical assistance necessary
19 to, the State in matters relating to—

20 “(A) the education of children with disabil-
21 ities; and

22 “(B) carrying out this part; and

23 “(2) provide short-term training programs and
24 institutes.

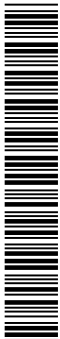


1 “(b) PROHIBITION AGAINST FEDERAL MANDATES,
2 DIRECTION, OR CONTROL.—Nothing in this Act may be
3 construed to authorize an officer or employee of the Fed-
4 eral Government to mandate, direct, or control a State,
5 local educational agency, or school’s specific instructional
6 content, curriculum, or program of instruction.

7 “(c) CONFIDENTIALITY.—The Secretary shall take
8 appropriate action, in accordance with section 444 of the
9 General Education Provisions Act (20 U.S.C. 1232g), to
10 ensure the protection of the confidentiality of any person-
11 ally identifiable data, information, and records collected
12 or maintained by the Secretary and by State and local
13 educational agencies pursuant to this part.

14 “(d) PERSONNEL.—The Secretary is authorized to
15 hire qualified personnel necessary to carry out the Sec-
16 retary’s duties under subsection (a) and under sections
17 618 and 661 without regard to the provisions of title 5,
18 United States Code, relating to appointments in the com-
19 petitive service and without regard to chapter 51 and sub-
20 chapter III of chapter 53 of such title relating to classi-
21 fication and general schedule pay rates, except that no
22 more than twenty such personnel shall be employed at any
23 time.

24 “(e) PILOT PROGRAM.—The Secretary is authorized
25 to grant waivers of paperwork requirements under this



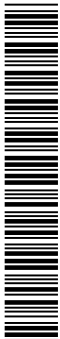
1 part for a period of time not to exceed 4 years with respect
2 to not more than 10 States based on proposals submitted
3 by States for addressing reduction of paperwork and non-
4 instructional time spent fulfilling statutory and regulatory
5 requirements.

6 “(f) REPORT.—The Secretary shall include in the an-
7 nual report to Congress under section 426 of the Depart-
8 ment of Education Organization Act information related
9 to the effectiveness of waivers granted under subsection
10 (e)—

11 “(1) in reducing the paperwork burden on
12 teachers, administrators, and related services pro-
13 viders and non-instructional time spent by teachers
14 in complying with this part, including any specific
15 recommendations for broader implementation; and

16 “(2) in enhancing longer-term educational plan-
17 ning, improving positive outcomes for children with
18 disabilities, promoting collaboration between IEP
19 Team members, and ensuring satisfaction of family
20 members, including any specific recommendations
21 for broader implementation.

22 “(g) MODEL FORMS.—Not later than the date on
23 which the Secretary publishes final regulations to imple-
24 ment this part (as amended by the Improving Education
25 Results for Children With Disabilities Act of 2003), the



1 Secretary shall publish and disseminate widely to States,
2 local educational agencies, and parent and community
3 training and information centers—

4 “(1) a model individualized education program
5 form;

6 “(2) a model form for the procedural safe-
7 guards notice described in section 615(d); and

8 “(3) a model form for the prior written notice
9 described in section 615(b)(3);

10 that would be consistent with the requirements of this part
11 and be deemed to be sufficient to meet such require-
12 ments.”.

13 **SEC. 208. PROGRAM INFORMATION.**

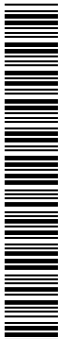
14 Section 618 of the Individuals with Disabilities Edu-
15 cation Act (20 U.S.C. 1418) is amended to read as follows:

16 **“SEC. 618. PROGRAM INFORMATION.**

17 “(a) IN GENERAL.—Each State that receives assist-
18 ance under this part, and the Secretary of the Interior,
19 shall provide data each year to the Secretary—

20 “(1)(A) on—

21 “(i) the number of children with disabil-
22 ities, by race, ethnicity, and disability category,
23 who are receiving a free appropriate public edu-
24 cation;



1 “(ii) the number of children with disabil-
2 ities, by race and ethnicity, who are receiving
3 early intervention services;

4 “(iii) the number of children with disabil-
5 ities, by race, ethnicity, and disability category,
6 who are participating in regular education;

7 “(iv) the number of children with disabil-
8 ities, by race, ethnicity, and disability category,
9 who are in separate classes, separate schools or
10 facilities, or public or private residential facili-
11 ties;

12 “(v) the number of children with disabil-
13 ities, by race, ethnicity, and disability category,
14 who, for each year of age from age 14 to 21,
15 stopped receiving special education and related
16 services because of program completion or other
17 reasons and the reasons why those children
18 stopped receiving special education and related
19 services;

20 “(vi) the number of children with disabil-
21 ities, by race and ethnicity, who, from birth
22 through age 2, stopped receiving early interven-
23 tion services because of program completion or
24 for other reasons;



1 “(vii)(I) the number of children with dis-
2 abilities, by race, ethnicity, and disability cat-
3 egory, who under subparagraph (A) or (B) of
4 section 615(j)(1), are removed to an interim al-
5 ternative educational setting;

6 “(II) the acts or items precipitating those
7 removals; and

8 “(III) the number of children with disabil-
9 ities, by race, ethnicity, and disability category,
10 who are subject to long-term suspensions or ex-
11 pulsions;

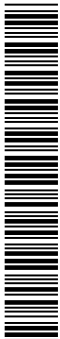
12 “(viii) the number of complaints resolved
13 through voluntary binding arbitration; and

14 “(ix) the number of mediations held and
15 the number of settlement agreements reached
16 through mediation;

17 “(B) on the number of infants and toddlers, by
18 race and ethnicity, who are at risk of having sub-
19 stantial developmental delays (as defined in section
20 632), and who are receiving early intervention serv-
21 ices under part C; and

22 “(C) on the number of children served with
23 funds under section 613(f); and

24 “(2) on any other information that may be re-
25 quired by the Secretary.



1 “(b) SAMPLING.—The Secretary may permit States
2 and the Secretary of the Interior to obtain the data de-
3 scribed in subsection (a) through sampling.

4 “(c) DISPROPORTIONALITY.—

5 “(1) IN GENERAL.—Each State that receives
6 assistance under this part, and the Secretary of the
7 Interior, shall provide for the collection and exam-
8 ination of data to determine if significant
9 disproportionality based on race is occurring in the
10 State with respect to—

11 “(A) the identification of children as chil-
12 dren with disabilities, including the identifica-
13 tion of children as children with disabilities in
14 accordance with a particular impairment de-
15 scribed in section 602(3);

16 “(B) the placement in particular edu-
17 cational settings of such children; and

18 “(C) the incidence, duration, and type of
19 disciplinary actions, including suspensions and
20 expulsions.

21 “(2) REVIEW AND REVISION OF POLICIES,
22 PRACTICES, AND PROCEDURES.—In the case of a de-
23 termination of significant disproportionality with re-
24 spect to the identification of children as children
25 with disabilities, or the placement in particular edu-



1 cational settings of such children, in accordance with
2 paragraph (1), the State or the Secretary of the In-
3 terior, as the case may be—

4 “(A) shall provide for the review and, if
5 appropriate, revision of the policies, procedures,
6 and practices used in such identification or
7 placement to ensure that such policies, proce-
8 dures, and practices comply with the require-
9 ments of this Act; and

10 “(B) shall require any local educational
11 agency identified under paragraph (1) to re-
12 serve the maximum amount of funds under sec-
13 tion 613(f) to provide comprehensive coordi-
14 nated prereferral support services to serve chil-
15 dren in the local educational agency, particu-
16 larly children in those groups that were signifi-
17 cantly overidentified under paragraph (1).

18 “(C) shall require the local educational
19 agency to publicly report on the revision of poli-
20 cies, practices, and procedures described under
21 subparagraph (A).”.

22 **SEC. 209. PRESCHOOL GRANTS.**

23 Section 619 of the Individuals with Disabilities Edu-
24 cation Act (20 U.S.C. 1419) is amended to read as follows:



1 **“SEC. 619. PRESCHOOL GRANTS.**

2 “(a) IN GENERAL.—The Secretary shall provide
3 grants under this section to assist States to provide special
4 education and related services, in accordance with this
5 part—

6 (1) to children with disabilities aged 3 through
7 5, inclusive; and

8 “(2) at the State’s discretion, to 2-year-old chil-
9 dren with disabilities who will turn 3 during the
10 school year.

11 “(b) ELIGIBILITY.—A State shall be eligible for a
12 grant under this section if such State—

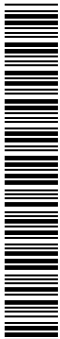
13 “(1) is eligible under section 612 to receive a
14 grant under this part; and

15 “(2) makes a free appropriate public education
16 available to all children with disabilities, aged 3
17 through 5, residing in the State.

18 “(c) ALLOCATIONS TO STATES.—

19 “(1) IN GENERAL.—The Secretary shall allo-
20 cate funds among the States in accordance with
21 paragraph (2) or (3), as appropriate.

22 “(2) INCREASE IN FUNDS.—If the amount
23 available for allocations to States under paragraph
24 (1) is equal to or greater than the amount allocated
25 to the States under this section for the preceding



1 fiscal year, those allocations shall be calculated as
2 follows:

3 “(A)(i) Except as provided in subpara-
4 graph (B), the Secretary shall—

5 “(I) allocate to each State the amount
6 it received for fiscal year 1997;

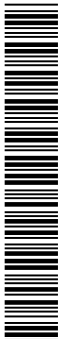
7 “(II) allocate 85 percent of any re-
8 maining funds to States on the basis of
9 their relative populations of children aged
10 3 through 5; and

11 “(III) allocate 15 percent of those re-
12 maining funds to States on the basis of
13 their relative populations of all children
14 aged 3 through 5 who are living in poverty.

15 “(ii) For the purpose of making grants
16 under this paragraph, the Secretary shall use
17 the most recent population data, including data
18 on children living in poverty, that are available
19 and satisfactory to the Secretary.

20 “(B) Notwithstanding subparagraph (A),
21 allocations under this paragraph shall be sub-
22 ject to the following:

23 “(i) No State’s allocation shall be less
24 than its allocation for the preceding fiscal
25 year.



1 “(ii) No State’s allocation shall be less
2 than the greatest of—

3 “(I) the sum of—

4 “(aa) the amount it received
5 for fiscal year 1997; and

6 “(bb) one third of one per-
7 cent of the amount by which the
8 amount appropriated under sub-
9 section (j) exceeds the amount
10 appropriated under this section
11 for fiscal year 1997;

12 “(II) the sum of—

13 “(aa) the amount it received
14 for the preceding fiscal year; and

15 “(bb) that amount multi-
16 plied by the percentage by which
17 the increase in the funds appro-
18 priated from the preceding fiscal
19 year exceeds 1.5 percent; or

20 “(III) the sum of—

21 “(aa) the amount it received
22 for the preceding fiscal year; and

23 “(bb) that amount multi-
24 plied by 90 percent of the per-
25 centage increase in the amount



1 appropriated from the preceding
2 fiscal year.

3 “(iii) Notwithstanding clause (ii), no
4 State’s allocation under this paragraph
5 shall exceed the sum of—

6 “(I) the amount it received for
7 the preceding fiscal year; and

8 “(II) that amount multiplied by
9 the sum of 1.5 percent and the per-
10 centage increase in the amount appro-
11 priated.

12 “(C) If the amount available for allocations
13 under this paragraph is insufficient to pay
14 those allocations in full, those allocations shall
15 be ratably reduced, subject to subparagraph
16 (B)(i).

17 “(3) DECREASE IN FUNDS.—If the amount
18 available for allocations to States under paragraph
19 (1) is less than the amount allocated to the States
20 under this section for the preceding fiscal year, those
21 allocations shall be calculated as follows:

22 “(A) If the amount available for allocations
23 is greater than the amount allocated to the
24 States for fiscal year 1997, each State shall be
25 allocated the sum of—



1 “(i) the amount it received for fiscal
2 year 1997; and

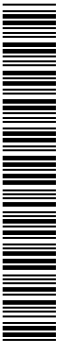
3 “(ii) an amount that bears the same
4 relation to any remaining funds as the in-
5 crease the State received for the preceding
6 fiscal year over fiscal year 1997 bears to
7 the total of all such increases for all
8 States.

9 “(B) If the amount available for alloca-
10 tions is equal to or less than the amount allo-
11 cated to the States for fiscal year 1997, each
12 State shall be allocated the amount it received
13 for that year, ratably reduced, if necessary.

14 “(d) RESERVATION FOR STATE ACTIVITIES.—

15 “(1) IN GENERAL.—Each State may retain not
16 more than the amount described in paragraph (2)
17 for administration and other State-level activities in
18 accordance with subsections (e) and (f).

19 “(2) AMOUNT DESCRIBED.—For each fiscal
20 year, the Secretary shall determine and report to the
21 State educational agency an amount that is 25 per-
22 cent of the amount the State received under this sec-
23 tion for fiscal year 1997, cumulatively adjusted by
24 the Secretary for each succeeding fiscal year by the
25 lesser of—



1 “(A) the percentage increase, if any, from
2 the preceding fiscal year in the State’s alloca-
3 tion under this section; or

4 “(B) the percentage increase, if any, from
5 the preceding fiscal year in the Consumer Price
6 Index For All Urban Consumers published by
7 the Bureau of Labor Statistics of the Depart-
8 ment of Labor.

9 “(e) STATE ADMINISTRATION.—

10 “(1) IN GENERAL.—For the purpose of admin-
11 istering this section (including the coordination of
12 activities under this part with, and providing tech-
13 nical assistance to, other programs that provide
14 services to children with disabilities) a State may
15 use not more than 20 percent of the maximum
16 amount it may retain under subsection (d) for any
17 fiscal year.

18 “(2) ADMINISTRATION OF PART C.—Funds de-
19 scribed in paragraph (1) may also be used for the
20 administration of part C of this Act, if the State
21 educational agency is the lead agency for the State
22 under that part.

23 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
24 shall use any funds it retains under subsection (d) and
25 does not use for administration under subsection (e)—



1 “(1) for support services (including establishing
2 and implementing the mediation and voluntary bind-
3 ing arbitration process required by section 615(e)),
4 which may benefit children with disabilities younger
5 than 3 or older than 5 as long as those services also
6 benefit children with disabilities aged 3 through 5;

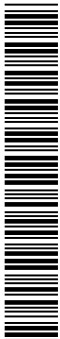
7 “(2) for direct services for children eligible for
8 services under this section;

9 “(3) for activities at the State and local levels
10 to meet the performance goals established by the
11 State under section 612(a)(16) and to support im-
12 plementation of the State plan under subpart 1 of
13 part D if the State receives funds under that sub-
14 part; or

15 “(4) to supplement other funds used to develop
16 and implement a Statewide coordinated services sys-
17 tem designed to improve results for children and
18 families, including children with disabilities and their
19 families, but not to exceed one percent of the
20 amount received by the State under this section for
21 a fiscal year.

22 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
23 CIES.—

24 “(1) SUBGRANTS REQUIRED.—Each State that
25 receives a grant under this section for any fiscal



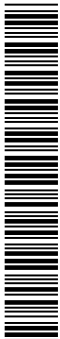
1 year shall distribute all of the grant funds that it
2 does not reserve under subsection (d) to local edu-
3 cational agencies in the State that have established
4 their eligibility under section 613, as follows:

5 “(A) BASE PAYMENTS.—The State shall
6 first award each agency described in paragraph
7 (1) the amount that agency would have received
8 under this section for fiscal year 1997 if the
9 State had distributed 75 percent of its grant for
10 that year under section 619(c)(3), as then in ef-
11 fect.

12 “(B) ALLOCATION OF REMAINING
13 FUNDS.—After making allocations under sub-
14 paragraph (A), the State shall—

15 “(i) allocate 85 percent of any re-
16 maining funds to those agencies on the
17 basis of the relative numbers of children
18 enrolled in public and private elementary
19 and secondary schools within the agency’s
20 jurisdiction; and

21 “(ii) allocate 15 percent of those re-
22 maining funds to those agencies in accord-
23 ance with their relative numbers of chil-
24 dren living in poverty, as determined by
25 the State educational agency.

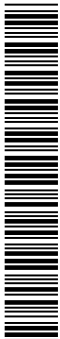


1 “(2) REALLOCATION OF FUNDS.—If a State
2 educational agency determines that a local edu-
3 cational agency is adequately providing a free appro-
4 priate public education to all children with disabil-
5 ities aged 3 through 5 residing in the area served by
6 that agency with State and local funds, the State
7 educational agency may reallocate any portion of the
8 funds under this section that are not needed by that
9 local agency to provide a free appropriate public
10 education to other local educational agencies in the
11 State that are not adequately providing special edu-
12 cation and related services to all children with dis-
13 abilities aged 3 through 5 residing in the areas they
14 serve.

15 “(h) PART C INAPPLICABLE.—Part C of this Act
16 does not apply to any child with a disability receiving a
17 free appropriate public education, in accordance with this
18 part, with funds received under this section.

19 “(i) DEFINITION.—For the purpose of this section,
20 the term ‘State’ means each of the 50 States, the District
21 of Columbia, and the Commonwealth of Puerto Rico.

22 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
23 purpose of carrying out this section, there are authorized
24 to be appropriated to the Secretary \$500,000,000 for fis-



1 cal year 2004 and such sums as may be necessary for each
2 subsequent fiscal year.”.

3 **TITLE III—INFANTS AND**
4 **TODDLERS WITH DISABILITIES**

5 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
6 **WITH DISABILITIES EDUCATION ACT.**

7 Sections 631 through 638 of the Individuals with
8 Disabilities Education Act (20 U.S.C. 1431–1438) are
9 amended to read as follows:

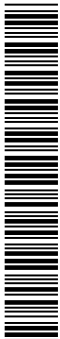
10 **“SEC. 631. FINDINGS AND POLICY.**

11 “(a) FINDINGS.—The Congress finds that there is an
12 urgent and substantial need—

13 “(1) to enhance the development of infants and
14 toddlers with disabilities and to minimize their po-
15 tential for developmental delay;

16 “(2) to reduce the educational costs to our soci-
17 ety, including our Nation’s schools, by minimizing
18 the need for special education and related services
19 after infants and toddlers with disabilities reach
20 school age;

21 “(3) to minimize the likelihood of institutional-
22 ization of individuals with disabilities and maximize
23 the potential for their independently living in society;



1 “(4) to enhance the capacity of families to meet
2 the special needs of their infants and toddlers with
3 disabilities; and

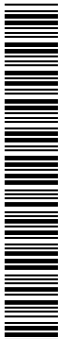
4 “(5) to enhance the capacity of State and local
5 agencies and service providers to identify, evaluate,
6 and meet the needs of historically underrepresented
7 populations, particularly minority, low-income, inner-
8 city, and rural populations.

9 “(b) POLICY.—It is the policy of the United States
10 to provide financial assistance to States—

11 “(1) to develop and implement a statewide,
12 comprehensive, coordinated, multidisciplinary, inter-
13 agency system that provides early intervention serv-
14 ices for infants and toddlers with disabilities and
15 their families;

16 “(2) to facilitate the coordination of payment
17 for early intervention services from Federal, State,
18 local, and private sources (including public and pri-
19 vate insurance coverage);

20 “(3) to enhance their capacity to provide qual-
21 ity early intervention services and expand and im-
22 prove existing early intervention services being pro-
23 vided to infants and toddlers with disabilities and
24 their families; and



1 “(4) to encourage States to expand opportuni-
2 ties for children under 3 years of age who would be
3 at risk of having substantial developmental delay if
4 they did not receive early intervention services.

5 **“SEC. 632. DEFINITIONS.**

6 “As used in this part:

7 “(1) AT-RISK INFANT OR TODDLER.—The term
8 ‘at-risk infant or toddler’ means an individual under
9 3 years of age who would be at risk of experiencing
10 a substantial developmental delay if early interven-
11 tion services were not provided to the individual.

12 “(2) COUNCIL.—The term ‘council’ means a
13 State interagency coordinating council established
14 under section 641.

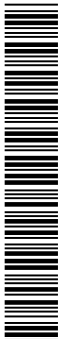
15 “(3) DEVELOPMENTAL DELAY.—The term ‘de-
16 velopmental delay’, when used with respect to an in-
17 dividual residing in a State, has the meaning given
18 such term by the State under section 635(a)(1).

19 “(4) EARLY INTERVENTION SERVICES.—The
20 term ‘early intervention services’ means develop-
21 mental services that—

22 “(A) are provided under public supervision;

23 “(B) are provided at no cost except where

24 Federal or State law provides for a system of



1 payments by families, including a schedule of
2 sliding fees;

3 “(C) are designed to address family-identi-
4 fied priorities and concerns that are determined
5 by individualized family service plan team to re-
6 late to enhancing the child’s development in any
7 one or more of the following areas—

8 “(i) physical development;

9 “(ii) cognitive development;

10 “(iii) communication development;

11 “(iv) social or emotional development;

12 or

13 “(v) adaptive development;

14 “(D) meet the standards of the State in
15 which they are provided, including the require-
16 ments of this part;

17 “(E) include—

18 “(i) family training, family therapy,
19 counseling, and home visits;

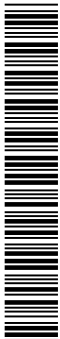
20 “(ii) special instruction;

21 “(iii) speech-language pathology and
22 audiology services;

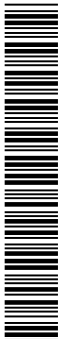
23 “(iv) occupational therapy;

24 “(v) physical therapy;

25 “(vi) psychological services;



- 1 “(vii) service coordination services;
- 2 “(viii) medical services only for diag-
- 3 nostic or evaluation purposes;
- 4 “(ix) early identification, screening,
- 5 and assessment services;
- 6 “(x) health services necessary to en-
- 7 able the infant or toddler to benefit from
- 8 the other early intervention services;
- 9 “(xi) social work services;
- 10 “(xii) vision services;
- 11 “(xiii) assistive technology devices and
- 12 assistive technology services; and
- 13 “(xiv) transportation and related costs
- 14 that are necessary to enable an infant or
- 15 toddler and the infant’s or toddler’s family
- 16 to receive another service described in this
- 17 paragraph;
- 18 “(F) are provided by qualified personnel,
- 19 including—
- 20 “(i) special educators;
- 21 “(ii) speech-language pathologists and
- 22 audiologists;
- 23 “(iii) occupational therapists;
- 24 “(iv) physical therapists;
- 25 “(v) psychologists;



1 “(vi) social workers;
2 “(vii) nurses;
3 “(viii) registered dietitians;
4 “(ix) family therapists;
5 “(x) orientation and mobility special-
6 ists; and

7 “(xi) pediatricians and other physi-
8 cians;

9 “(G) to the maximum extent appropriate,
10 are provided in natural environments, including
11 the home, and community settings in which
12 children without disabilities participate; and

13 “(H) are provided in conformity with an
14 individualized family service plan adopted in ac-
15 cordance with section 636.

16 “(5) INFANT OR TODDLER WITH A DIS-
17 ABILITY.—The term ‘infant or toddler with a dis-
18 ability’—

19 “(A) means an individual under 3 years of
20 age who needs early intervention services be-
21 cause the individual—

22 “(i) is experiencing developmental
23 delays, as measured by appropriate diag-
24 nostic instruments and procedures in one
25 or more of the areas of cognitive develop-



1 ment, physical development, communica-
2 tion development, social or emotional devel-
3 opment, and adaptive development; or

4 “(ii) has a diagnosed physical or men-
5 tal condition which has a high probability
6 of resulting in developmental delay;

7 “(B) may also include, at a State’s discre-
8 tion, at-risk infants and toddlers; and

9 “(C) may also include, at a State’s discre-
10 tion, a child aged 3 through 5, who previously
11 received services under this part and who is eli-
12 gible for services under section 619, if—

13 “(i) services provided to this age
14 group under this part include an edu-
15 cational component that promotes school
16 readiness and incorporates scientifically
17 based pre-literacy, language, and numeracy
18 skills; and

19 “(ii) parents are provided a written
20 notification of their rights and responsibil-
21 ities in determining whether their child will
22 continue to receive services under this part
23 or participate in preschool programs as-
24 sisted under section 619.



1 **“SEC. 633. GENERAL AUTHORITY.**

2 “The Secretary shall, in accordance with this part,
3 make grants to States (from their allotments under sec-
4 tion 643) to assist each State to maintain and implement
5 a statewide, comprehensive, coordinated, multidisciplinary,
6 interagency system to provide early intervention services
7 for infants and toddlers with disabilities and their families.

8 **“SEC. 634. ELIGIBILITY.**

9 “In order to be eligible for a grant under section 633,
10 a State shall provide assurances to the Secretary that the
11 State—

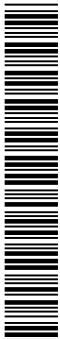
12 “(1) has adopted a policy that appropriate early
13 intervention services are available to all infants and
14 toddlers with disabilities in the State and their fami-
15 lies, including Indian infants and toddlers with dis-
16 abilities and their families residing on a reservation
17 geographically located in the State; and

18 “(2) has in effect a statewide system that meets
19 the requirements of section 635.

20 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

21 “(a) IN GENERAL.—A statewide system described in
22 section 633 shall include, at a minimum, the following
23 components:

24 “(1) A definition of the term ‘developmental
25 delay’ that will be used by the State in carrying out
26 programs under this part.



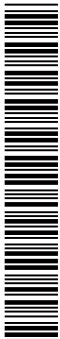
1 “(2) A State policy that is in effect and that
2 ensures that appropriate early intervention services
3 based on scientifically based research are available to
4 all infants and toddlers with disabilities and their
5 families, including Indian infants and toddlers and
6 their families residing on a reservation geographi-
7 cally located in the State.

8 “(3) A timely, comprehensive, multidisciplinary
9 evaluation of the functioning of each infant or tod-
10 dler with a disability in the State, and a family-di-
11 rected identification of the needs of each family of
12 such an infant or toddler, to appropriately assist in
13 the development of the infant or toddler.

14 “(4) For each infant or toddler with a disability
15 in the State, an individualized family service plan in
16 accordance with section 636, including service co-
17 ordination services in accordance with such service
18 plan.

19 “(5) A comprehensive child find system, con-
20 sistent with part B, including a system for making
21 referrals to service providers that includes timelines
22 and provides for participation by primary referral
23 sources.

24 “(6) A public awareness program focusing on
25 early identification of infants and toddlers with dis-



1 abilities, including the preparation and dissemination
2 by the lead agency designated or established under
3 paragraph (10) to all primary referral sources, espe-
4 cially hospitals and physicians, of information for
5 parents on the availability of early intervention serv-
6 ices, and procedures for determining the extent to
7 which such sources disseminate such information to
8 parents of infants and toddlers.

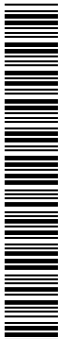
9 “(7) A central directory that includes informa-
10 tion on early intervention services, resources, and ex-
11 perts available in the State and research and dem-
12 onstration projects being conducted in the State.

13 “(8) A comprehensive system of personnel de-
14 velopment, including the training of paraprofes-
15 sionals and the training of primary referral sources
16 respecting the basic components of early intervention
17 services available in the State that—

18 “(A) shall include—

19 “(i) implementing innovative strate-
20 gies and activities for the recruitment and
21 retention of early education service pro-
22 viders;

23 “(ii) promoting the preparation of
24 early intervention providers who are fully



1 and appropriately qualified to provide early
2 intervention services under this part; and

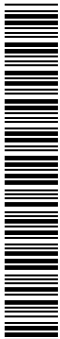
3 “(iii) training personnel to coordinate
4 transition services for infants and toddlers
5 served under this part from a program
6 providing early intervention services under
7 this part and under part B (other than
8 section 619), to a preschool program re-
9 ceiving funds under section 619, or an-
10 other appropriate program; and

11 “(B) may include—

12 “(i) training personnel to work in
13 rural and inner-city areas; and

14 “(ii) training personnel in the emo-
15 tional and social development of young
16 children.

17 “(9) Subject to subsection (b), policies and pro-
18 cedures relating to the establishment and mainte-
19 nance of standards to ensure that personnel nec-
20 essary to carry out this part are appropriately and
21 adequately prepared and trained, including the es-
22 tablishment and maintenance of standards that are
23 consistent with any State-approved or recognized
24 certification, licensing, registration, or other com-
25 parable requirements that apply to the area in which



1 such personnel are providing early intervention serv-
2 ices.

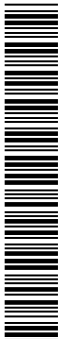
3 “(10) A single line of responsibility in a lead
4 agency designated or established by the Governor for
5 carrying out—

6 “(A) the general administration and super-
7 vision of programs and activities receiving as-
8 sistance under section 633, and the monitoring
9 of programs and activities used by the State to
10 carry out this part, whether or not such pro-
11 grams or activities are receiving assistance
12 made available under section 633, to ensure
13 that the State complies with this part;

14 “(B) the identification and coordination of
15 all available resources within the State from
16 Federal, State, local, and private sources;

17 “(C) the assignment of financial responsi-
18 bility in accordance with section 637(a)(2) to
19 the appropriate agencies;

20 “(D) the development of procedures to en-
21 sure that services are provided to infants and
22 toddlers with disabilities and their families
23 under this part in a timely manner pending the
24 resolution of any disputes among public agen-
25 cies or service providers;



1 “(E) the resolution of intra- and inter-
2 agency disputes; and

3 “(F) the entry into formal interagency
4 agreements that define the financial responsi-
5 bility of each agency for paying for early inter-
6 vention services (consistent with State law) and
7 procedures for resolving disputes and that in-
8 clude all additional components necessary to en-
9 sure meaningful cooperation and coordination.

10 “(11) A policy pertaining to the contracting or
11 making of other arrangements with service providers
12 to provide early intervention services in the State,
13 consistent with the provisions of this part, including
14 the contents of the application used and the condi-
15 tions of the contract or other arrangements.

16 “(12) A procedure for securing timely reim-
17 bursements of funds used under this part in accord-
18 ance with section 640(a).

19 “(13) Procedural safeguards with respect to
20 programs under this part, as required by section
21 639.

22 “(14) A system for compiling data requested by
23 the Secretary under section 618 that relates to this
24 part.



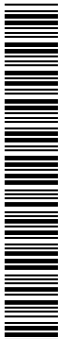
1 “(15) A State interagency coordinating council
2 that meets the requirements of section 641.

3 “(16) Policies and procedures to ensure that,
4 consistent with section 636(d)(5)—

5 “(A) to the maximum extent appropriate,
6 early intervention services are provided in nat-
7 ural environments; and

8 “(B) the provision of early intervention
9 services for any infant or toddler occurs in a
10 setting other than a natural environment only
11 when early intervention cannot be achieved sat-
12 isfactorily for the infant or toddler in a natural
13 environment.

14 “(b) POLICY.—In implementing subsection (a)(9), a
15 State may adopt a policy that includes making ongoing
16 good-faith efforts to recruit and hire appropriately and
17 adequately trained personnel to provide early intervention
18 services to infants and toddlers with disabilities, including,
19 in a geographic area of the State where there is a shortage
20 of such personnel, the most qualified individuals available
21 who are making satisfactory progress toward completing
22 applicable course work necessary to meet the standards
23 described in subsection (a)(9), consistent with State law
24 within 3 years.



1 “(c) TREATMENT OF CHILDREN AGED 3 THROUGH
2 5.—

3 “(1) IN GENERAL.—If a State includes children
4 described in section 632(5)(C) in the system de-
5 scribed in section 633, the State shall be considered
6 to have fulfilled any obligation under part B with re-
7 spect to the provision of a free appropriate public
8 education to those children during the period in
9 which they are receiving services under this part.

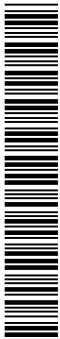
10 “(2) CONSTRUCTION.—Nothing in paragraph
11 (1) shall be construed to alter or diminish the rights
12 and protections afforded under this part to children
13 described in such paragraph.

14 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

15 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—
16 A statewide system described in section 633 shall provide,
17 at a minimum, for each infant or toddler with a disability,
18 and the infant’s or toddler’s family, to receive—

19 “(1) a multidisciplinary assessment of the
20 unique strengths and needs of the infant or toddler
21 and the identification of services appropriate to meet
22 such needs;

23 “(2) a family-directed assessment of the re-
24 sources, priorities, and concerns of the family and
25 the identification of the supports and services nec-



1 essary to enhance the family's capacity to meet the
2 developmental needs of the infant or toddler; and

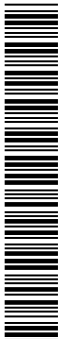
3 “(3) a written individualized family service plan
4 developed by a multidisciplinary team, including the
5 parents, as required by subsection (e), including a
6 description of the appropriate transition services for
7 the child's entrance in school.

8 “(b) PERIODIC REVIEW.—The individualized family
9 service plan shall be evaluated once a year and the family
10 shall be provided a review of the plan at 6-month intervals
11 (or more often where appropriate based on infant or tod-
12 dler and family needs).

13 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
14 vidualized family service plan shall be developed within a
15 reasonable time after the assessment required by sub-
16 section (a)(1) is completed. With the parents' consent,
17 early intervention services may commence prior to the
18 completion of the assessment.

19 “(d) CONTENT OF PLAN.—The individualized family
20 service plan shall be in writing and contain—

21 “(1) a statement of the infant's or toddler's
22 present levels of physical development, cognitive de-
23 velopment, communication development, social or
24 emotional development, and adaptive development,
25 based on objective criteria;



1 “(2) a statement of the family’s resources, pri-
2 orities, and concerns relating to enhancing the devel-
3 opment of the family’s infant or toddler with a dis-
4 ability;

5 “(3) a statement of the major goals expected to
6 be achieved for the infant or toddler and the family,
7 including pre-literacy and language skills, as devel-
8 opmentally appropriate for the child, and the cri-
9 teria, procedures, and timelines used to determine
10 the degree to which progress toward achieving the
11 goals is being made and whether modifications or re-
12 visions of the goals or services are necessary;

13 “(4) a statement of specific early intervention
14 services based on peer-reviewed research, to the ex-
15 tent practicable, necessary to meet the unique needs
16 of the infant or toddler and the family, including the
17 frequency, intensity, and method of delivering serv-
18 ices;

19 “(5) a statement of the natural environments in
20 which early intervention services will appropriately
21 be provided, including a justification of the extent,
22 if any, to which the services will not be provided in
23 a natural environment;



1 “(6) the projected dates for initiation of serv-
2 ices and the anticipated length, duration, and fre-
3 quency of the services;

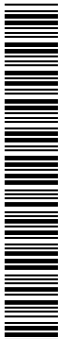
4 “(7) the identification of the service coordinator
5 from the profession most immediately relevant to the
6 infant’s or toddler’s or family’s needs (or who is oth-
7 erwise qualified to carry out all applicable respon-
8 sibilities under this part) who will be responsible for
9 the implementation of the plan and coordination
10 with other agencies and persons, including transition
11 services; and

12 “(8) the steps to be taken to support the transi-
13 tion of the toddler with a disability to preschool or
14 other appropriate services.

15 “(e) PARENTAL CONSENT.—The contents of the indi-
16 vidualized family service plan shall be fully explained to
17 the parents and informed written consent from the par-
18 ents shall be obtained prior to the provision of early inter-
19 vention services described in such plan. If the parents do
20 not provide consent with respect to a particular early
21 intervention service, then only the early intervention serv-
22 ices to which consent is obtained shall be provided.

23 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

24 “(a) APPLICATION.—A State desiring to receive a
25 grant under section 633 shall submit an application to the



1 Secretary at such time and in such manner as the Sec-
2 retary may reasonably require. The application shall
3 contain—

4 “(1) a designation of the lead agency in the
5 State that will be responsible for the administration
6 of funds provided under section 633;

7 “(2) a designation of an individual or entity re-
8 sponsible for assigning financial responsibility
9 among appropriate agencies;

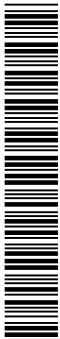
10 “(3) information demonstrating eligibility of the
11 State under section 634, including a description of
12 services to be provided to infants and toddlers with
13 disabilities and their families through the system;

14 “(4) if the State provides services to at-risk in-
15 fants and toddlers through the State-wide system, a
16 description of such services;

17 “(5) a description of the State policies and pro-
18 cedures requiring the referral of a child under the
19 age 3 who is involved in a substantiated case of child
20 abuse or neglect consistent with section 635(a)(5);

21 “(6) a description of the uses for which funds
22 will be expended in accordance with this part;

23 “(7) a description of the procedure used to en-
24 sure that resources are made available under this
25 part for all geographic areas within the State;



1 “(8) a description of State policies and proce-
2 dures that ensure that, prior to the adoption by the
3 State of any other policy or procedure necessary to
4 meet the requirements of this part, there are public
5 hearings, adequate notice of the hearings, and an
6 opportunity for comment available to the general
7 public, including individuals with disabilities and
8 parents of infants and toddlers with disabilities;

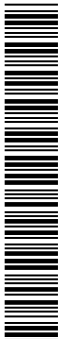
9 “(9) a description of the policies and procedures
10 to be used—

11 “(A) to ensure a smooth transition for tod-
12 dlers receiving early intervention services under
13 this part to preschool or other appropriate serv-
14 ices, including a description of how—

15 “(i) the families of such toddlers will
16 be included in the transition plans required
17 by subparagraph (C); and

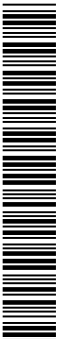
18 “(ii) the lead agency designated or es-
19 tablished under section 635(a)(10) will—

20 “(I) notify the local educational
21 agency for the area in which such a
22 child resides that the child will shortly
23 reach the age of eligibility for pre-
24 school services under part B, as deter-
25 mined in accordance with State law;



1 “(II) in the case of a child who
2 may be eligible for such preschool
3 services, with the approval of the fam-
4 ily of the child, convene a conference
5 among the lead agency, the family,
6 and the local educational agency at
7 least 90 days (and at the discretion of
8 all such parties, up to 6 months) be-
9 fore the child is eligible for the pre-
10 school services, to discuss any such
11 services that the child may receive;
12 and

13 “(III) in the case of a child who
14 may not be eligible for such preschool
15 services, with the approval of the fam-
16 ily, make reasonable efforts to con-
17 vene a conference among the lead
18 agency, the family, and providers of
19 other appropriate services for children
20 who are not eligible for preschool serv-
21 ices under part B, to discuss the ap-
22 propriate services that the child may
23 receive;



1 “(B) to review the child’s program options
2 for the period from the child’s third birthday
3 through the remainder of the school year; and

4 “(C) to establish a transition plan; and

5 “(10) such other information and assurances as
6 the Secretary may reasonably require.

7 “(b) ASSURANCES.—The application described in
8 subsection (a)—

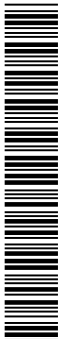
9 “(1) shall provide satisfactory assurance that
10 Federal funds made available under section 643 to
11 the State will be expended in accordance with this
12 part;

13 “(2) shall contain an assurance that the State
14 will comply with the requirements of section 640;

15 “(3) shall provide satisfactory assurance that
16 the control of funds provided under section 643, and
17 title to property derived from those funds, will be in
18 a public agency for the uses and purposes provided
19 in this part and that a public agency will administer
20 such funds and property;

21 “(4) shall provide for—

22 “(A) making such reports in such form
23 and containing such information as the Sec-
24 retary may require to carry out the Secretary’s
25 functions under this part; and



1 “(B) keeping such records and affording
2 such access to them as the Secretary may find
3 necessary to ensure the correctness and ver-
4 ification of those reports and proper disburse-
5 ment of Federal funds under this part;

6 “(5) provide satisfactory assurance that Federal
7 funds made available under section 643 to the
8 State—

9 “(A) will not be commingled with State
10 funds; and

11 “(B) will be used so as to supplement the
12 level of State and local funds expended for in-
13 fants and toddlers with disabilities and their
14 families and in no case to supplant those State
15 and local funds;

16 “(6) shall provide satisfactory assurance that
17 such fiscal control and fund accounting procedures
18 will be adopted as may be necessary to ensure prop-
19 er disbursement of, and accounting for, Federal
20 funds paid under section 643 to the State;

21 “(7) shall provide satisfactory assurance that
22 policies and procedures have been adopted to ensure
23 meaningful involvement of underserved groups, in-
24 cluding minority, low-income, and rural families, in



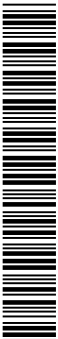
1 the planning and implementation of all the require-
2 ments of this part; and

3 “(8) shall contain such other information and
4 assurances as the Secretary may reasonably require
5 by regulation.

6 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
7 TION.—The Secretary may not disapprove such an appli-
8 cation unless the Secretary determines, after notice and
9 opportunity for a hearing, that the application fails to
10 comply with the requirements of this section.

11 “(d) SUBSEQUENT STATE APPLICATION.—If a State
12 has on file with the Secretary a policy, procedure, or as-
13 surance that demonstrates that the State meets a require-
14 ment of this section, including any policy or procedure
15 filed under this part (as in effect before the date of the
16 enactment of the Improving Education Results for Chil-
17 dren With Disabilities Act of 2003), the Secretary shall
18 consider the State to have met the requirement for pur-
19 poses of receiving a grant under this part.

20 “(e) MODIFICATION OF APPLICATION.—An applica-
21 tion submitted by a State in accordance with this section
22 shall remain in effect until the State submits to the Sec-
23 retary such modifications as the State determines nec-
24 essary. This section shall apply to a modification of an



1 application to the same extent and in the same manner
2 as this section applies to the original application.

3 “(f) MODIFICATIONS REQUIRED BY THE SEC-
4 RETARY.—The Secretary may require a State to modify
5 its application under this section, but only to the extent
6 necessary to ensure the State’s compliance with this part,
7 if—

8 “(1) an amendment is made to this Act, or a
9 Federal regulation issued under this Act;

10 “(2) a new interpretation of this Act is made by
11 a Federal court or the State’s highest court; or

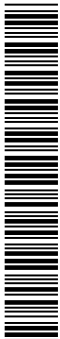
12 “(3) an official finding of noncompliance with
13 Federal law or regulations is made with respect to
14 the State.

15 **“SEC. 638. USES OF FUNDS.**

16 “In addition to using funds provided under section
17 633 to maintain and implement the statewide system re-
18 quired by such section, a State may use such funds—

19 “(1) for direct early intervention services for in-
20 fants and toddlers with disabilities, and their fami-
21 lies, under this part that are not otherwise funded
22 through other public or private sources;

23 “(2) to expand and improve on services for in-
24 fants and toddlers and their families under this part
25 that are otherwise available;



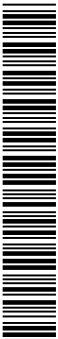
1 “(3) to provide a free appropriate public edu-
2 cation, in accordance with part B, to children with
3 disabilities from their third birthday to the begin-
4 ning of the following school year; and

5 “(4) in any State that does not provide services
6 for at-risk infants and toddlers under section
7 637(a)(4), to strengthen the statewide system by ini-
8 tiating, expanding, or improving collaborative efforts
9 related to at-risk infants and toddlers, including es-
10 tablishing linkages with appropriate public or private
11 community-based organizations, services, and per-
12 sonnel for the purposes of—

13 “(A) identifying and evaluating at-risk in-
14 fants and toddlers;

15 “(B) making referrals of the infants and
16 toddlers identified and evaluated under sub-
17 paragraph (A); and

18 “(C) conducting periodic follow-up on each
19 such referral to determine if the status of the
20 infant or toddler involved has changed with re-
21 spect to the eligibility of the infant or toddler
22 for services under this part.”.



1 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**
2 **WITH DISABILITIES EDUCATION ACT.**

3 Sections 641 through 645 of the Individuals with
4 Disabilities Education Act (20 U.S.C. 1441–1445) are
5 amended to read as follows:

6 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

7 **“(a) ESTABLISHMENT.—**

8 **“(1) IN GENERAL.—**A State that desires to re-
9 ceive financial assistance under this part shall estab-
10 lish a State interagency coordinating council.

11 **“(2) APPOINTMENT.—**The council shall be ap-
12 pointed by the Governor. In making appointments to
13 the council, the Governor shall ensure that the mem-
14 bership of the council reasonably represents the pop-
15 ulation of the State.

16 **“(3) CHAIRPERSON.—**The Governor shall des-
17 ignate a member of the council to serve as the chair-
18 person of the council, or shall require the council to
19 so designate such a member. Any member of the
20 council who is a representative of the lead agency
21 designated under section 635(a)(10) may not serve
22 as the chairperson of the council.

23 **“(b) COMPOSITION.—**

24 **“(1) IN GENERAL.—**The council shall be com-
25 posed as follows:



1 “(A) PARENTS.—At least 20 percent of
2 the members shall be parents of infants or tod-
3 dlers with disabilities or children with disabil-
4 ities aged 12 or younger, with knowledge of, or
5 experience with, programs for infants and tod-
6 dlers with disabilities. At least one such mem-
7 ber shall be a parent of an infant or toddler
8 with a disability or a child with a disability
9 aged 6 or younger.

10 “(B) SERVICE PROVIDERS.—At least 20
11 percent of the members shall be public or pri-
12 vate providers of early intervention services.

13 “(C) STATE LEGISLATURE.—At least one
14 member shall be from the State legislature.

15 “(D) PERSONNEL PREPARATION.—At least
16 one member shall be involved in personnel prep-
17 aration.

18 “(E) AGENCY FOR EARLY INTERVENTION
19 SERVICES.—At least one member shall be from
20 each of the State agencies involved in the provi-
21 sion of, or payment for, early intervention serv-
22 ices to infants and toddlers with disabilities and
23 their families and shall have sufficient authority
24 to engage in policy planning and implementa-
25 tion on behalf of such agencies.



1 “(F) AGENCY FOR PRESCHOOL SERV-
2 ICES.—At least one member shall be from the
3 State educational agency responsible for pre-
4 school services to children with disabilities and
5 shall have sufficient authority to engage in pol-
6 icy planning and implementation on behalf of
7 such agency.

8 “(G) AGENCY FOR HEALTH INSURANCE.—
9 At least one member shall be from the agency
10 responsible for the State governance of health
11 insurance.

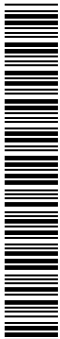
12 “(H) HEAD START AGENCY.—At least one
13 representative from a Head Start agency or
14 program in the State.

15 “(I) CHILD CARE AGENCY.—At least one
16 representative from a State agency responsible
17 for child care.

18 “(J) MENTAL HEALTH AGENCY.—At least
19 one representative from the State agency re-
20 sponsible for children’s mental health.

21 “(K) CHILD WELFARE AGENCY.—At least
22 one representative from the State agency re-
23 sponsible for child protective services.

24 “(L) OFFICE OF THE COORDINATOR FOR
25 THE EDUCATION OF HOMELESS CHILDREN AND

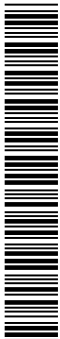


1 YOUTH.—At least one representative designated
2 by the Office of the Coordinator.

3 “(2) OTHER MEMBERS.—The council may in-
4 clude other members selected by the Governor, in-
5 cluding a representative from the Bureau of Indian
6 Affairs, or where there is no BIA-operated or BIA-
7 funded school, from the Indian Health Service or the
8 tribe or tribal council.

9 “(c) MEETINGS.—The council shall meet at least
10 quarterly and in such places as it deems necessary. The
11 meetings shall be publicly announced, and, to the extent
12 appropriate, open and accessible to the general public.

13 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
14 proval of the Governor, the council may prepare and ap-
15 prove a budget using funds under this part to conduct
16 hearings and forums, to reimburse members of the council
17 for reasonable and necessary expenses for attending coun-
18 cil meetings and performing council duties (including child
19 care for parent representatives), to pay compensation to
20 a member of the council if the member is not employed
21 or must forfeit wages from other employment when per-
22 forming official council business, to hire staff, and to ob-
23 tain the services of such professional, technical, and cler-
24 ical personnel as may be necessary to carry out its func-
25 tions under this part.



1 “(e) FUNCTIONS OF COUNCIL.—

2 “(1) DUTIES.—The council shall—

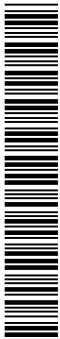
3 “(A) advise and assist the lead agency des-
4 ignated or established under section 635(a)(10)
5 in the performance of the responsibilities set
6 forth in such section, particularly the identifica-
7 tion of the sources of fiscal and other support
8 for services for early intervention programs, as-
9 signment of financial responsibility to the ap-
10 propriate agency, and the promotion of the
11 interagency agreements;

12 “(B) advise and assist the lead agency in
13 the preparation of applications and amend-
14 ments thereto;

15 “(C) advise and assist the State edu-
16 cational agency regarding the transition of tod-
17 dlers with disabilities to preschool and other ap-
18 propriate services; and

19 “(D) prepare and submit an annual report
20 to the Governor and to the Secretary on the
21 status of early intervention programs for in-
22 fants and toddlers with disabilities and their
23 families operated within the State.

24 “(2) AUTHORIZED ACTIVITY.—The council may
25 advise and assist the lead agency and the State edu-



1 cational agency regarding the provision of appro-
2 priate services for children from birth through age
3 5. The council may advise appropriate agencies in
4 the State with respect to the integration of services
5 for infants and toddlers with disabilities and at-risk
6 infants and toddlers and their families, regardless of
7 whether at-risk infants and toddlers are eligible for
8 early intervention services in the State.

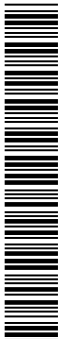
9 “(f) CONFLICT OF INTEREST.—No member of the
10 council shall cast a vote on any matter that would provide
11 direct financial benefit to that member or otherwise give
12 the appearance of a conflict of interest under State law.

13 **“SEC. 642. FEDERAL ADMINISTRATION.**

14 “Sections 616, 617, and 618 shall, to the extent not
15 inconsistent with this part, apply to the program author-
16 ized by this part, except that—

17 “(1) any reference in such sections to a State
18 educational agency shall be considered to be a ref-
19 erence to a State’s lead agency established or des-
20 ignated under section 635(a)(10);

21 “(2) any reference in such sections to a local
22 educational agency, educational service agency, or a
23 State agency shall be considered to be a reference to
24 an early intervention service provider under this
25 part; and



1 “(3) any reference to the education of children
2 with disabilities or the education of all children with
3 disabilities shall be considered to be a reference to
4 the provision of appropriate early intervention serv-
5 ices to infants and toddlers with disabilities.

6 **“SEC. 643. ALLOCATION OF FUNDS.**

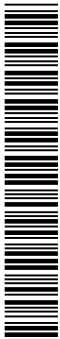
7 “(a) RESERVATION OF FUNDS FOR OUTLYING
8 AREAS.—

9 “(1) IN GENERAL.—From the sums appro-
10 priated to carry out this part for any fiscal year, the
11 Secretary may reserve up to one percent for pay-
12 ments to Guam, American Samoa, the Virgin Is-
13 lands, and the Commonwealth of the Northern Mar-
14 iana Islands in accordance with their respective
15 needs.

16 “(2) CONSOLIDATION OF FUNDS.—The provi-
17 sions of Public Law 95–134, permitting the consoli-
18 dation of grants to the outlying areas, shall not
19 apply to funds those areas receive under this part.

20 “(b) PAYMENTS TO INDIANS.—

21 “(1) IN GENERAL.—The Secretary shall, sub-
22 ject to this subsection, make payments to the Sec-
23 retary of the Interior to be distributed to tribes,
24 tribal organizations (as defined under section 4 of
25 the Indian Self-Determination and Education Assist-



1 ance Act), or consortia of the above entities for the
2 coordination of assistance in the provision of early
3 intervention services by the States to infants and
4 toddlers with disabilities and their families on res-
5 ervations served by elementary and secondary
6 schools for Indian children operated or funded by
7 the Department of the Interior. The amount of such
8 payment for any fiscal year shall be 1.25 percent of
9 the aggregate of the amount available to all States
10 under this part for such fiscal year.

11 “(2) ALLOCATION.—For each fiscal year, the
12 Secretary of the Interior shall distribute the entire
13 payment received under paragraph (1) by providing
14 to each tribe, tribal organization, or consortium an
15 amount based on the number of infants and toddlers
16 residing on the reservation, as determined annually,
17 divided by the total number of such children served
18 by all tribes, tribal organizations, or consortia.

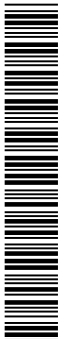
19 “(3) INFORMATION.—To receive a payment
20 under this subsection, the tribe, tribal organization,
21 or consortium shall submit such information to the
22 Secretary of the Interior as is needed to determine
23 the amounts to be distributed under paragraph (2).

24 “(4) USE OF FUNDS.—The funds received by a
25 tribe, tribal organization, or consortium shall be



1 used to assist States in child find, screening, and
2 other procedures for the early identification of In-
3 dian children under 3 years of age and for parent
4 training. Such funds may also be used to provide
5 early intervention services in accordance with this
6 part. Such activities may be carried out directly or
7 through contracts or cooperative agreements with
8 the BIA, local educational agencies, and other public
9 or private nonprofit organizations. The tribe, tribal
10 organization, or consortium is encouraged to involve
11 Indian parents in the development and implementa-
12 tion of these activities. The above entities shall, as
13 appropriate, make referrals to local, State, or Fed-
14 eral entities for the provision of services or further
15 diagnosis.

16 “(5) REPORTS.—To be eligible to receive a
17 grant under paragraph (2), a tribe, tribal organiza-
18 tion, or consortium shall make an annual report to
19 the Secretary of the Interior of activities undertaken
20 under this subsection, including the number of con-
21 tracts and cooperative agreements entered into, the
22 number of children contacted and receiving services
23 for each year, and the estimated number of children
24 needing services during the year following the year
25 in which the report is made. The Secretary of the



1 Interior shall include a summary of this information
2 on an annual basis to the Secretary of Education
3 along with such other information as required under
4 section 611(h)(3)(E). The Secretary of Education
5 may require any additional information from the
6 Secretary of the Interior.

7 “(6) PROHIBITED USES OF FUNDS.—None of
8 the funds under this subsection may be used by the
9 Secretary of the Interior for administrative pur-
10 poses, including child count, and the provision of
11 technical assistance.

12 “(c) STATE ALLOTMENTS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3) from the funds remaining for
15 each fiscal year after the reservation and payments
16 under subsections (a) and (b), the Secretary shall
17 first allot to each State an amount that bears the
18 same ratio to the amount of such remainder as the
19 number of infants and toddlers in the State bears to
20 the number of infants and toddlers in all States.

21 “(2) MINIMUM ALLOTMENTS.—Except as pro-
22 vided in paragraph (3) no State shall receive an
23 amount under this section for any fiscal year that is
24 less than the greater of—



1 “(A) one-half of one percent of the remain-
2 ing amount described in paragraph (1); or

3 “(B) \$500,000.

4 “(3) RATABLE REDUCTION.—

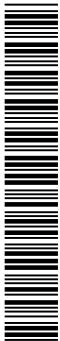
5 “(A) IN GENERAL.—If the sums made
6 available under this part for any fiscal year are
7 insufficient to pay the full amounts that all
8 States are eligible to receive under this sub-
9 section for such year, the Secretary shall rat-
10 ably reduce the allotments to such States for
11 such year.

12 “(B) ADDITIONAL FUNDS.—If additional
13 funds become available for making payments
14 under this subsection for a fiscal year, allot-
15 ments that were reduced under subparagraph
16 (A) shall be increased on the same basis they
17 were reduced.

18 “(4) DEFINITIONS.—For the purpose of this
19 subsection—

20 “(A) the terms ‘infants’ and ‘toddlers’
21 mean children under 3 years of age; and

22 “(B) the term ‘State’ means each of the 50
23 States, the District of Columbia, and the Com-
24 monwealth of Puerto Rico.



1 “(d) REALLOTMENT OF FUNDS.—If a State elects
2 not to receive its allotment under subsection (c), the Sec-
3 retary shall realLOT, among the remaining States, amounts
4 from such State in accordance with such subsection.

5 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

6 “For the purpose of carrying out this part, there are
7 authorized to be appropriated \$447,000,000 for fiscal year
8 2004 and such sums as may be necessary for each of the
9 fiscal years 2005 through 2009.”.

10 **TITLE IV—NATIONAL ACTIVITIES**
11 **TO IMPROVE EDUCATION OF**
12 **CHILDREN WITH DISABIL-**
13 **ITIES**

14 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
15 **OF CHILDREN WITH DISABILITIES.**

16 Part D of the Individuals with Disabilities Education
17 Act (20 U.S.C. 1451 et seq.) is amended to read as fol-
18 lows:

19 **“PART D—NATIONAL ACTIVITIES TO IMPROVE**
20 **EDUCATION OF CHILDREN WITH DISABILITIES**

21 **“SEC. 651. FINDINGS.**

22 “The Congress finds the following:

23 “(1) The Federal Government has an ongoing
24 obligation to support activities that contribute to
25 positive results for children with disabilities, ena-



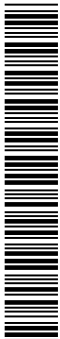
1 bling them to lead productive and independent adult
2 lives.

3 “(2) Systemic change benefiting all students,
4 including children with disabilities, requires the in-
5 volvement of States, local educational agencies, par-
6 ents, individuals with disabilities and their families,
7 teachers and other service providers, and other inter-
8 ested individuals and organizations, to develop and
9 implement comprehensive strategies that improve
10 educational results for children with disabilities.

11 “(3) State educational agencies, in partnership
12 with local educational agencies, parents of children
13 with disabilities, and other individuals and organiza-
14 tions, are in the best position to improve education
15 for children with disabilities and to address their
16 special needs.

17 “(4) An effective educational system serving
18 students with disabilities should—

19 “(A) maintain high academic standards
20 and clear achievement goals for children, con-
21 sistent with the standards and expectations for
22 all students in the educational system, and pro-
23 vide for appropriate and effective strategies and
24 methods to ensure that all children with disabil-



1 ities have the opportunity to achieve those
2 standards and goals;

3 “(B) clearly define, in objective, measur-
4 able terms, the school and post-school results
5 that children with disabilities are expected to
6 achieve; and

7 “(C) promote transition services, as de-
8 scribed in section 602(31), and coordinate State
9 and local education, social, health, mental
10 health, and other services, to address the full
11 range of student needs, particularly the needs
12 of children with disabilities who need significant
13 levels of support to participate and learn in
14 school and the community.

15 “(5) The availability of an adequate number of
16 qualified personnel is critical in order to serve effec-
17 tively children with disabilities, fill leadership posi-
18 tions in administrative and direct-service capacities,
19 provide teacher training, and conduct high-quality
20 research to improve special education.

21 “(6) High-quality, comprehensive professional
22 development programs are essential to ensure that
23 the persons responsible for the education or transi-
24 tion of children with disabilities possess the skills



1 and knowledge necessary to address the educational
2 and related needs of those children.

3 “(7) Models of professional development should
4 be scientifically based and reflect successful prac-
5 tices, including strategies for recruiting, preparing,
6 and retaining personnel.

7 “(8) Continued support is essential for the de-
8 velopment and maintenance of a coordinated and
9 high-quality program of research to inform success-
10 ful teaching practices and model curricula for edu-
11 cating children with disabilities.

12 “(9) A comprehensive research agenda should
13 be established and pursued to promote the highest
14 quality and rigor in research on special education
15 and related services, and to address the full range
16 of issues facing children with disabilities, parents of
17 children with disabilities, school personnel, and oth-
18 ers.

19 “(10) Technical assistance, support, and dis-
20 semination activities are necessary to ensure that
21 parts B and C are fully implemented and achieve
22 quality early intervention, educational, and transi-
23 tional results for children with disabilities and their
24 families.



1 “(11) Parents, teachers, administrators, and re-
2 lated services personnel need technical assistance
3 and information in a timely, coordinated, and acces-
4 sible manner in order to improve early intervention,
5 educational, and transitional services and results at
6 the State and local levels for children with disabil-
7 ities and their families.

8 “(12) Parent and community training and in-
9 formation activities assist parents of a child with a
10 disability in dealing with the multiple pressures of
11 parenting such a child and are of particular impor-
12 tance in—

13 “(A) creating and preserving constructive
14 relationships between parents of children with
15 disabilities and schools by facilitating open com-
16 munication between such parents and schools,
17 encouraging dispute resolution at the earliest
18 point in time possible, and discouraging the es-
19 calation of an adversarial process between such
20 parents and schools;

21 “(B) ensuring the involvement of such par-
22 ents in planning and decision-making with re-
23 spect to early intervention, educational, and
24 transitional services;



1 “(C) achieving high-quality early interven-
2 tion, educational, and transitional results for
3 children with disabilities;

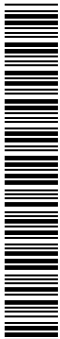
4 “(D) providing such parents information
5 on their rights, protections, and responsibilities
6 under this Act to ensure improved early inter-
7 vention, educational, and transitional results for
8 children with disabilities;

9 “(E) assisting such parents in the develop-
10 ment of skills to participate effectively in the
11 education and development of their children and
12 in the transitions described in section 602(31);

13 “(F) supporting the roles of such parents
14 as participants within partnerships seeking to
15 improve early intervention, educational, and
16 transitional services and results for children
17 with disabilities and their families; and

18 “(G) supporting those parents who may
19 have limited access to services and supports due
20 to economic, cultural, or linguistic barriers.

21 “(13) Support is needed to improve techno-
22 logical resources and integrate technology into the
23 lives of children with disabilities, parents of children
24 with disabilities, school personnel, and others



1 through curricula, services, and assistive tech-
2 nologies.

3 **“Subpart 1—State Professional Development Grants**

4 **“SEC. 652. PURPOSE.**

5 “The purpose of this subpart is to assist State edu-
6 cational agencies in reforming and improving their sys-
7 tems for professional development in early intervention,
8 educational, and related and transition services in order
9 to improve results for children with disabilities.

10 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

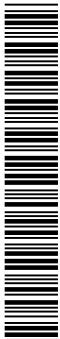
11 “(a) ELIGIBLE APPLICANTS.—A State educational
12 agency may apply for a grant under this subpart for a
13 period of not less than 1 year and not more than 5 years.

14 “(b) PARTNERS.—

15 “(1) REQUIRED PARTNERS.—In order to be
16 considered for a grant under this subpart, a State
17 educational agency shall enter into a partnership
18 agreement with local educational agencies, at least
19 one institution of higher education in the State, and
20 other State agencies involved in, or concerned with,
21 the education of children with disabilities.

22 “(2) OPTIONAL PARTNERS.—In addition, a
23 State educational agency may enter into a partner-
24 ship agreement with any of the following:

25 “(A) The Governor.



1 “(B) Parents of children with disabilities
2 ages birth through 26.

3 “(C) Parents of nondisabled children ages
4 birth through 26.

5 “(D) Individuals with disabilities.

6 “(E) Organizations representing individ-
7 uals with disabilities and their parents, such as
8 parent and community training and information
9 centers.

10 “(F) Community-based and other non-
11 profit organizations involved in the education
12 and employment of individuals with disabilities.

13 “(G) The lead State agency for part C.

14 “(H) General and special education teach-
15 ers, related services personnel, and early inter-
16 vention personnel.

17 “(I) The State advisory panel established
18 under part C.

19 “(J) The State interagency coordinating
20 council established under part C.

21 “(K) Institutions of higher education with-
22 in the State.

23 “(L) Individuals knowledgeable about voca-
24 tional education.



1 “(M) The State agency for higher edu-
2 cation.

3 “(N) The State vocational rehabilitation
4 agency.

5 “(O) Public agencies with jurisdiction in
6 the areas of health, mental health, social serv-
7 ices, and juvenile justice.

8 “(P) Other providers of professional devel-
9 opment that work with students with disabil-
10 ities.

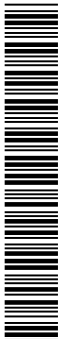
11 “(Q) Other individuals.

12 **“SEC. 654. APPLICATIONS.**

13 “(a) IN GENERAL.—

14 “(1) SUBMISSION.—A State educational agency
15 that desires to receive a grant under this subpart
16 shall submit to the Secretary an application at such
17 time, in such manner, and including such informa-
18 tion as the Secretary may require.

19 “(2) STATE PLAN.—The application shall in-
20 clude a plan that addresses the State and local
21 needs for the professional development of adminis-
22 trators, principals, teachers, related services per-
23 sonnel, and individuals who provide direct supple-
24 mentary aids and services to children with disabil-
25 ities, and that—



1 “(A) is integrated, to the maximum extent
2 possible, with State plans under the Elementary
3 and Secondary Education Act of 1965, the Re-
4 habilitation Act of 1973, and the Higher Edu-
5 cation Act of 1965, as appropriate; and

6 “(B) is designed to enable the State to
7 meet the requirements of section 612(a)(15) of
8 this Act.

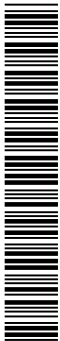
9 “(b) ELEMENTS OF STATE PLAN.—Each State plan
10 shall—

11 “(1) describe a partnership agreement that—

12 “(A) specifies—

13 “(i) the nature and extent of the part-
14 nership among the State educational agen-
15 cy, local educational agencies, and other
16 State agencies involved in, or concerned
17 with, the education of children with disabil-
18 ities, and the respective roles of each mem-
19 ber of the partnership; and

20 “(ii) how such agencies will work in
21 partnership with other persons and organi-
22 zations involved in, and concerned with,
23 the education of children with disabilities,
24 including the respective roles of each of
25 these persons and organizations; and



1 “(B) is in effect for the period of the
2 grant;

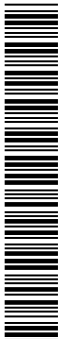
3 “(2) describe how grant funds, including part B
4 funds retained for use at the State level under sec-
5 tions 611(e) and 619(d), and other Federal funds
6 will be used to support activities conducted under
7 this subpart;

8 “(3) describe the strategies the State will use to
9 implement the plan to improve results for children
10 with disabilities, including—

11 “(A) how the State will align its profes-
12 sional development plan with the plans sub-
13 mitted by the State under sections 1111 and
14 2112 of the Elementary and Secondary Edu-
15 cation Act of 1965;

16 “(B) how the State will provide technical
17 assistance to local educational agencies and
18 schools to improve the quality of professional
19 development available to meet the needs of per-
20 sonnel that serve children with disabilities;

21 “(C) how the State will assess, on a reg-
22 ular basis, the extent to which the strategies
23 implemented under this subpart have been ef-
24 fective in meeting the achievement goals and in-
25 dicators in section 612(a)(16);



1 “(4) describe, as appropriate, how the strate-
2 gies described in paragraph (3) will be coordinated
3 with public and private sector resources; and

4 “(5) include an assurance that the State will
5 use funds received under this subpart to carry out
6 each of the activities specified in the plan.

7 “(c) COMPETITIVE AWARDS.—

8 “(1) IN GENERAL.—The Secretary shall make
9 grants under this subpart on a competitive basis.

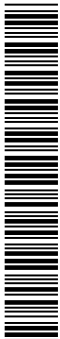
10 “(2) PRIORITY.—The Secretary may give pri-
11 ority to applications on the basis of need.

12 “(d) PEER REVIEW.—

13 “(1) IN GENERAL.—The Secretary shall evalu-
14 ate applications under this subpart using a panel of
15 experts who are qualified by virtue of their training,
16 expertise, or experience.

17 “(2) COMPOSITION OF PANEL.—A majority of a
18 panel described in paragraph (1) shall be composed
19 of individuals who are not employees of the Federal
20 Government.

21 “(3) PAYMENT OF FEES AND EXPENSES OF
22 CERTAIN MEMBERS.—The Secretary may use avail-
23 able funds appropriated to carry out this subpart to
24 pay the expenses and fees of panel members who are
25 not employees of the Federal Government.



1 “(e) REPORTING PROCEDURES.—Each State edu-
2 cational agency that receives a grant under this subpart
3 shall submit annual performance reports to the Secretary.

4 The reports shall—

5 “(1) describe the progress of the State in imple-
6 menting its plan;

7 “(2) analyze the effectiveness of the State’s ac-
8 tivities under this subpart and of the State’s strate-
9 gies for meeting its goals under section 612(a)(16);
10 and

11 “(3) identify any changes in such strategies
12 needed to improve its performance.

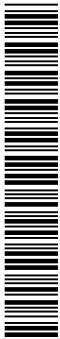
13 **“SEC. 655. USE OF FUNDS.**

14 “(a) IN GENERAL.—

15 “(1) ACTIVITIES.—A State educational agency
16 that receives a grant under this subpart shall use
17 the grant funds, subject to subsection (b), for the
18 following:

19 “(A) PROFESSIONAL DEVELOPMENT.—

20 “(i) Carrying out programs that sup-
21 port the professional development of early
22 intervention personnel, related services per-
23 sonnel, and both special education and reg-
24 ular education teachers of children with
25 disabilities, such as programs that—



1 “(I) provide teacher mentoring,
2 team teaching, reduced class sched-
3 ules, and intensive professional devel-
4 opment;

5 “(II) use standards or assess-
6 ments for guiding beginning teachers
7 that are consistent with challenging
8 State student academic achievement
9 standards and with the definition of
10 professional development in section
11 9101 of the Elementary and Sec-
12 ondary Education Act of 1965;

13 “(III) promote collaborative and
14 consultive models of providing special
15 education ad related services; and

16 “(IV) increase understanding as
17 to the most appropriate placements
18 and services for all students to reduce
19 significant racial and ethnic
20 disproportionality in eligibility, place-
21 ment, and disciplinary actions.

22 “(ii) Encouraging and supporting the
23 training of special education and regular
24 education teachers and administrators to
25 effectively integrate technology into cur-



1 ricula and instruction, including training
2 to improve the ability to collect, manage,
3 and analyze data to improve teaching, deci-
4 sionmaking, school improvement efforts,
5 and accountability.

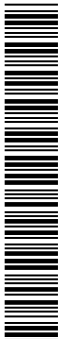
6 “(iii) Providing professional develop-
7 ment activities that improve the knowledge
8 of special education and regular education
9 teachers concerning—

10 “(I) the academic and develop-
11 mental needs of students with disabil-
12 ities; and

13 “(II) effective instructional strat-
14 egies, methods, and skills, use of chal-
15 lenging State academic content stand-
16 ards and student academic achieve-
17 ment standards, and use of State as-
18 sessments, to improve teaching prac-
19 tices and student academic achieve-
20 ment.

21 “(iv) Providing professional develop-
22 ment activities that—

23 “(I) improve the knowledge of
24 special education and regular edu-
25 cation teachers and principals and, in



1 appropriate cases, related services
2 personnel and paraprofessionals, con-
3 cerning effective instructional prac-
4 tices;

5 “(II) provide training in how to
6 teach and address the needs of stu-
7 dents with different learning styles;

8 “(III) involve collaborative
9 groups of teachers and administra-
10 tors;

11 “(IV) provide training in meth-
12 ods of—

13 “(aa) positive behavior inter-
14 ventions and supports to improve
15 student behavior in the class-
16 room;

17 “(bb) scientifically based
18 reading instruction, including
19 early literacy instruction; and

20 “(cc) early and appropriate
21 interventions to identify and help
22 students with disabilities;

23 “(V) provide training to enable
24 special education and regular edu-
25 cation teachers, related services per-



1 sonnel, and principals to involve par-
2 ents in their child's education, espe-
3 cially parents of low income and lim-
4 ited English proficient children with
5 disabilities; or

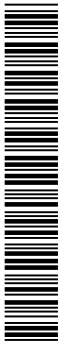
6 “(VI) train administrators and
7 other relevant school personnel in con-
8 ducting facilitated individualized edu-
9 cation program meetings.

10 “(v) Developing and implementing ini-
11 tiatives to promote retention of highly
12 qualified special education teachers, includ-
13 ing programs that provide—

14 “(I) teacher mentoring from ex-
15 emplary special education teachers,
16 principals, or superintendents;

17 “(II) induction and support for
18 special education teachers during their
19 first 3 years of employment as teach-
20 ers; or

21 “(III) incentives, including finan-
22 cial incentives, to retain special edu-
23 cation teachers who have a record of
24 success in helping students with dis-



1 abilities improve their academic
2 achievement.

3 “(vi) Carrying out programs and ac-
4 tivities that are designed to improve the
5 quality of the teacher force that serves
6 children with disabilities, such as—

7 “(I) innovative professional devel-
8 opment programs (which may be pro-
9 vided through partnerships including
10 institutions of higher education), in-
11 cluding programs that train teachers
12 and principals to integrate technology
13 into curricula and instruction to im-
14 prove teaching, learning, and tech-
15 nology literacy, are consistent with the
16 requirements of section 9101 of the
17 Elementary and Secondary Education
18 Act of 1965, and are coordinated with
19 activities carried out under this part;
20 and

21 “(II) development and use of
22 proven, cost-effective strategies for the
23 implementation of professional devel-
24 opment activities, such as through the



1 use of technology and distance learn-
2 ing.

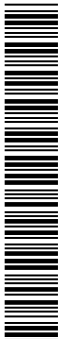
3 “(B) STATE ACTIVITIES.—

4 “(i) Reforming special education and
5 regular education teacher certification (in-
6 cluding recertification) or licensing require-
7 ments to ensure that—

8 “(I) special education and reg-
9 ular education teachers have the
10 training and information necessary,
11 including an understanding of the lat-
12 est scientifically valid education re-
13 search and its applicability, to address
14 the wide variety of needs of children
15 with disabilities across disability cat-
16 egories;

17 “(II) special education and reg-
18 ular education teachers have the nec-
19 essary subject matter knowledge and
20 teaching skills in the academic sub-
21 jects that the teachers teach;

22 “(III) special education and reg-
23 ular education teacher certification
24 (including recertification) or licensing
25 requirements are aligned with chal-

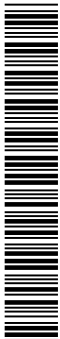


1 lenging State academic content stand-
2 ards; and

3 “(IV) special education and reg-
4 ular education teachers have the sub-
5 ject matter knowledge and teaching
6 skills, including technology literacy,
7 necessary to help students meet chal-
8 lenging State student academic
9 achievement standards.

10 “(ii) Carrying out programs that es-
11 tablish, expand, or improve alternative
12 routes for State certification of special
13 education teachers for individuals who
14 demonstrate the potential to become highly
15 effective special education teachers, such
16 as individuals with a baccalaureate or mas-
17 ter’s degree (including mid-career profes-
18 sionals from other occupations), para-
19 professionals, former military personnel,
20 and recent college or university graduates
21 with records of academic distinction.

22 “(iii) Carrying out teacher advance-
23 ment initiatives for special education
24 teachers that promote professional growth
25 and emphasize multiple career paths (such



1 as paths to becoming a career teacher,
2 mentor teacher, or exemplary teacher) and
3 pay differentiation.

4 “(iv) Developing and implementing
5 mechanisms to assist local educational
6 agencies and schools in effectively recruit-
7 ing and retaining highly qualified special
8 education teachers.

9 “(v) Reforming tenure systems, imple-
10 menting teacher testing for subject matter
11 knowledge, and implementing teacher test-
12 ing for State certification or licensing, con-
13 sistent with title II of the Higher Edu-
14 cation Act of 1965.

15 “(vi) Developing and implementing
16 mechanisms to assist schools in effectively
17 recruiting and retaining highly qualified
18 special education teachers.

19 “(vii) Funding projects to promote
20 reciprocity of teacher certification or li-
21 censing between or among States for spe-
22 cial education teachers, except that no reci-
23 procity agreement developed under this
24 clause or developed using funds provided
25 under this subpart may lead to the weak-

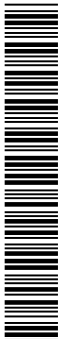


1 ening of any State teaching certification or
2 licensing requirement.

3 “(viii) Developing or assisting local
4 educational agencies to serve children with
5 disabilities through the development and
6 use of proven, innovative strategies to de-
7 liver intensive professional development
8 programs that are both cost-effective and
9 easily accessible, such as strategies that in-
10 volve delivery through the use of tech-
11 nology, peer networks, and distance learn-
12 ing.

13 “(ix) Developing, or assisting local
14 educational agencies in developing, merit-
15 based performance systems, and strategies
16 that provide differential and bonus pay for
17 special education teachers.

18 “(x) Supporting activities that ensure
19 that teachers are able to use challenging
20 State academic content standards and stu-
21 dent academic achievement standards, and
22 State assessments, to improve instructional
23 practices and improve the academic
24 achievement of children with disabilities.



1 “(xi) Coordinating with, and expand-
2 ing, centers established under section
3 2113(c)(18) of the Elementary and Sec-
4 ondary Education Act of 1965 to benefit
5 special education teachers.

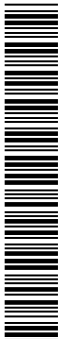
6 “(2) CONTRACTS AND SUBGRANTS.—Each such
7 State educational agency—

8 “(A) shall, consistent with its partnership
9 agreement under section 654(b)(1), award con-
10 tracts or subgrants to local educational agen-
11 cies, institutions of higher education, and par-
12 ent and community training and information
13 centers, as appropriate, to carry out its State
14 plan under this subpart; and

15 “(B) may award contracts and subgrants
16 to other public and private entities, including
17 the lead agency under part C, to carry out such
18 plan.

19 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
20 MENT.—A State educational agency that receives a grant
21 under this subpart shall use—

22 “(1) not less than 90 percent of the funds it re-
23 ceives under the grant for any fiscal year for activi-
24 ties under subsection (a)(1)(A); and



1 “(2) not more than 10 percent of the funds it
2 receives under the grant for any fiscal year for ac-
3 tivities under subsection (a)(1)(B).

4 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95–
5 134, permitting the consolidation of grants to the outlying
6 areas, shall not apply to funds received under this subpart.

7 **“SEC. 656. STATE GRANT AMOUNTS.**

8 “(a) IN GENERAL.—The Secretary shall make a
9 grant to each State educational agency whose application
10 the Secretary has selected for funding under this subpart
11 in an amount for each fiscal year that is—

12 “(1) not less than \$500,000, nor more than
13 \$2,000,000, in the case of the 50 States, the Dis-
14 trict of Columbia, and the Commonwealth of Puerto
15 Rico; and

16 “(2) not less than \$80,000, in the case of an
17 outlying area.

18 “(b) FACTORS.—The Secretary shall set the amount
19 of each grant under subsection (a) after considering—

20 “(1) the amount of funds available for making
21 the grants;

22 “(2) the relative population of the State or out-
23 lying area; and

24 “(3) the types of activities proposed by the
25 State or outlying area, including—



1 “(A) the alignment of proposed activities
2 with paragraphs (14) and (15) of section
3 612(a);

4 “(B) the alignment of proposed activities
5 with the plans submitted under sections 1111
6 and 2112 of the Elementary and Secondary
7 Education Act of 1965; and

8 “(C) the use, as appropriate, of scientif-
9 ically-based research.

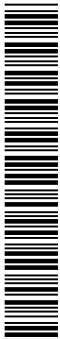
10 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out
12 this subpart \$44,000,000 for fiscal year 2004 and such
13 sums as may be necessary for each of the fiscal years 2005
14 through 2009.

15 **Subpart 2—Scientifically Based Research; Technical**
16 **Assistance; Model Demonstration Projects; Dis-**
17 **semination of Information; and Personnel Prep-**
18 **aration Programs**

19 **“SEC. 661. PURPOSE.**

20 “The purpose of this subpart is to provide Federal
21 funding for scientifically based research, technical assist-
22 ance, model demonstration projects, information dissemi-
23 nation, and personnel preparation programs to improve
24 early intervention, educational, and transitional results for
25 children with disabilities.



1 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

2 “(a) COMPREHENSIVE PLAN.—

3 “(1) IN GENERAL.—The Secretary shall develop
4 and implement a comprehensive plan for activities
5 carried out under this subpart (other than section
6 663) in order to enhance the provision of edu-
7 cational, related, transitional, and early intervention
8 services to children with disabilities under parts B
9 and C. The plan shall include mechanisms to ad-
10 dress educational, related services, transitional, and
11 early intervention needs identified by State edu-
12 cational agencies in applications submitted under
13 subpart 1.

14 “(2) PUBLIC COMMENT.—The Secretary shall
15 provide a public comment period of at least 30 days
16 on the plan.

17 “(3) DISTRIBUTION OF FUNDS.—In imple-
18 menting the plan, the Secretary shall, to the extent
19 appropriate, ensure that funds are awarded to re-
20 cipients under this subpart to carry out activities
21 that benefit, directly or indirectly, children with dis-
22 abilities of all ages.

23 “(4) REPORTS TO CONGRESS.—The Secretary
24 shall annually report to the Congress on the Sec-
25 retary’s activities under this subsection, including an
26 initial report not later than the date that is 12



1 months after the date of the enactment of Improving
2 Education Results for Children With Disabilities Act
3 of 2003.

4 “(b) ELIGIBLE APPLICANTS.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subpart, the following entities are eligi-
7 ble to apply for a grant, contract, or cooperative
8 agreement under this subpart:

9 “(A) A State educational agency.

10 “(B) A local educational agency.

11 “(C) A public charter school that is a local
12 educational agency under State law.

13 “(D) An institution of higher education.

14 “(E) Any other public agency.

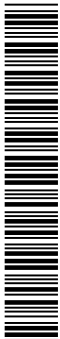
15 “(F) A private nonprofit organization.

16 “(G) An outlying area.

17 “(H) An Indian tribe or a tribal organiza-
18 tion (as defined under section 4 of the Indian
19 Self-Determination and Education Assistance
20 Act (25 U.S.C. 450b)).

21 “(I) A for-profit organization if the Sec-
22 retary finds it appropriate given the specific
23 purpose of the competition.

24 “(2) SPECIAL RULE.—The Secretary may limit
25 the entities eligible for an award of a grant, con-



1 tract, or cooperative agreement to one or more cat-
2 egories of eligible entities described in paragraph
3 (1).

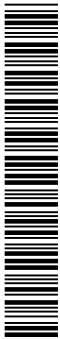
4 “(c) SPECIAL POPULATIONS.—

5 “(1) APPLICATION REQUIREMENT.—In making
6 an award of a grant, contract, or cooperative agree-
7 ment under this subpart, the Secretary shall, as ap-
8 propriate, require an applicant to demonstrate how
9 the applicant will address the needs of children with
10 disabilities from minority backgrounds.

11 “(2) REQUIRED OUTREACH AND TECHNICAL AS-
12 SISTANCE.—Notwithstanding any other provision of
13 this Act, the Secretary shall reserve at least two per-
14 cent of the total amount of funds appropriated to
15 carry out this subpart for either or both of the fol-
16 lowing activities:

17 “(A) Providing outreach and technical as-
18 sistance to historically black colleges and uni-
19 versities, and to institutions of higher education
20 with minority enrollments of at least 25 per-
21 cent, to promote the participation of such col-
22 leges, universities, and institutions in activities
23 under this subpart.

24 “(B) Enabling historically black colleges
25 and universities, and the institutions described



1 in subparagraph (A), to assist other colleges,
2 universities, institutions, and agencies in im-
3 proving educational and transitional results for
4 children with disabilities, if such grant appli-
5 cants meet the criteria established by the Sec-
6 retary under this subpart.

7 “(d) PRIORITIES.—The Secretary, in making an
8 award of a grant, contract, or cooperative agreement
9 under this subpart, may, without regard to the rulemaking
10 procedures under section 553 of title 5, United States
11 Code, limit competitions to, or otherwise give priority to—

12 “(1) projects that address one or more—

13 “(A) age ranges;

14 “(B) disabilities;

15 “(C) school grades;

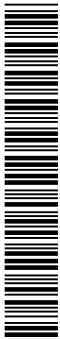
16 “(D) types of educational placements or
17 early intervention environments;

18 “(E) types of services;

19 “(F) content areas, such as reading; or

20 “(G) effective strategies for helping chil-
21 dren with disabilities learn appropriate behavior
22 in the school and other community-based edu-
23 cational settings;

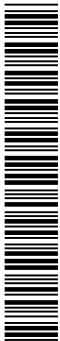
24 “(2) projects that address the needs of children
25 based on the severity or incidence of their disability;



1 “(3) projects that address the needs of—
2 “(A) low-achieving students;
3 “(B) underserved populations;
4 “(C) children from low-income families;
5 “(D) children with limited English pro-
6 ficiency;
7 “(E) unserved and underserved areas;
8 “(F) rural or urban areas;
9 “(G) children whose behavior interferes
10 with their learning and socialization;
11 “(H) children with intractable reading dif-
12 ficulties; and
13 “(I) children in public charter schools;
14 “(4) projects to reduce inappropriate identifica-
15 tion of children as children with disabilities, particu-
16 larly among minority children; and
17 “(5) any activity that is expressly authorized in
18 this subpart or subpart 3.

19 “(e) APPLICANT AND RECIPIENT RESPONSIBIL-
20 ITIES.—

21 “(1) DEVELOPMENT AND ASSESSMENT OF
22 PROJECTS.—The Secretary shall require that an ap-
23 plicant for, and a recipient of, a grant, contract, or
24 cooperative agreement for a project under this
25 subpart—



1 “(A) involve individuals with disabilities, or
2 parents of individuals with disabilities ages
3 birth through 26, in planning, implementing,
4 and evaluating the project; and

5 “(B) where appropriate, determine whether
6 the project has any potential for replication and
7 adoption by other entities.

8 “(2) ADDITIONAL RESPONSIBILITIES.—The
9 Secretary may require a recipient of a grant, con-
10 tract, or cooperative agreement for a project under
11 this subpart—

12 “(A) to share in the cost of the project;

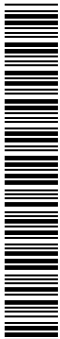
13 “(B) to prepare the research and evalua-
14 tion findings and products from the project in
15 formats that are useful for specific audiences,
16 including parents, administrators, teachers,
17 early intervention personnel, related services
18 personnel, and individuals with disabilities;

19 “(C) to disseminate such findings and
20 products; and

21 “(D) to collaborate with other such recipi-
22 ents in carrying out subparagraphs (B) and
23 (C).

24 “(f) APPLICATION MANAGEMENT.—

25 “(1) STANDING PANEL.—



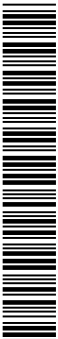
1 “(A) IN GENERAL.—The Secretary shall
2 establish and use a standing panel of experts
3 who are qualified, by virtue of their training,
4 expertise, or experience, to evaluate applications
5 under this subpart (other than section 663)
6 that, individually, request more than \$75,000
7 per year in Federal financial assistance.

8 “(B) MEMBERSHIP.—The standing panel
9 shall include, at a minimum—

10 “(i) individuals who are representa-
11 tives of institutions of higher education
12 that plan, develop, and carry out high-
13 quality programs of personnel preparation;

14 “(ii) individuals who design and carry
15 out scientifically-based research targeted to
16 the improvement of special education pro-
17 grams and services;

18 “(iii) individuals who have recognized
19 experience and knowledge necessary to in-
20 tegrate and apply scientifically-based re-
21 search findings to improve educational and
22 transitional results for children with dis-
23 abilities;



1 “(iv) individuals who administer pro-
2 grams at the State or local level in which
3 children with disabilities participate;

4 “(v) individuals who prepare parents
5 of children with disabilities to participate
6 in making decisions about the education of
7 their children;

8 “(vi) individuals who establish policies
9 that affect the delivery of services to chil-
10 dren with disabilities;

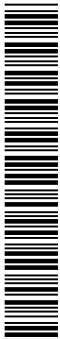
11 “(vii) individuals who are parents of
12 children with disabilities ages birth
13 through 26 who are benefiting, or have
14 benefited, from coordinated research, per-
15 sonnel preparation, and technical assist-
16 ance; and

17 “(viii) individuals with disabilities.

18 “(C) TERM.—No individual shall serve on
19 the standing panel for more than 3 consecutive
20 years.

21 “(2) PEER-REVIEW PANELS FOR PARTICULAR
22 COMPETITIONS.—

23 “(A) COMPOSITION.—The Secretary shall
24 ensure that each sub-panel selected from the
25 standing panel that reviews applications under



1 this subpart (other than section 663)
2 includes—

3 “(i) individuals with knowledge and
4 expertise on the issues addressed by the
5 activities authorized by the subpart; and

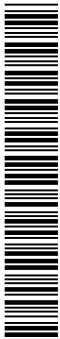
6 “(ii) to the extent practicable, parents
7 of children with disabilities ages birth
8 through 26, individuals with disabilities,
9 and persons from diverse backgrounds.

10 “(B) FEDERAL EMPLOYMENT LIMITA-
11 TION.—A majority of the individuals on each
12 sub-panel that reviews an application under this
13 subpart (other than section 663) shall be indi-
14 viduals who are not employees of the Federal
15 Government.

16 “(3) USE OF DISCRETIONARY FUNDS FOR AD-
17 MINISTRATIVE PURPOSES.—

18 “(A) EXPENSES AND FEES OF NON-FED-
19 ERAL PANEL MEMBERS.—The Secretary may
20 use funds available under this subpart to pay
21 the expenses and fees of the panel members
22 who are not officers or employees of the Fed-
23 eral Government.

24 “(B) ADMINISTRATIVE SUPPORT.—The
25 Secretary may use not more than 1 percent of



1 the funds appropriated to carry out this sub-
2 part to pay non-Federal entities for administra-
3 tive support related to management of applica-
4 tions submitted under this subpart.

5 “(g) PROGRAM EVALUATION.—The Secretary may
6 use funds appropriated to carry out this subpart to evalu-
7 ate activities carried out under the subpart.

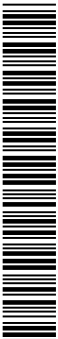
8 “(h) MINIMUM FUNDING REQUIRED.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 the Secretary shall ensure that, for each fiscal year,
11 at least the following amounts are provided under
12 this subpart to address the following needs:

13 “(A) \$12,832,000 to address the edu-
14 cational, related services, transitional, and early
15 intervention needs of children with deaf-blind-
16 ness.

17 “(B) \$4,000,000 to address the postsec-
18 ondary, vocational, technical, continuing, and
19 adult education needs of individuals with deaf-
20 ness.

21 “(C) \$4,000,000 to address the edu-
22 cational, related services, and transitional needs
23 of children with an emotional disturbance and
24 those who are at risk of developing an emo-
25 tional disturbance.



1 “(2) RATABLE REDUCTION.—If the total
2 amount appropriated to carry out this subpart for
3 any fiscal year is less than \$130,000,000, the
4 amounts listed in paragraph (1) shall be ratably re-
5 duced.

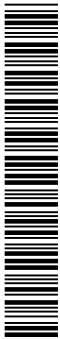
6 “(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-
7 fective for fiscal years for which the Secretary may make
8 grants under section 619(b), no State or local educational
9 agency or educational service agency or other public insti-
10 tution or agency may receive a grant under this subpart
11 which relates exclusively to programs, projects, and activi-
12 ties pertaining to children aged 3 through 5, inclusive, un-
13 less the State is eligible to receive a grant under section
14 619(b).

15 **“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-**
16 **DREN WITH DISABILITIES**

17 “(a) NATIONAL CENTER FOR SPECIAL EDUCATION
18 RESEARCH.—

19 “(1) ESTABLISHMENT.—

20 “(A) IN GENERAL.—There is established,
21 in the Institute of Education Sciences estab-
22 lished under section 111 of the Education
23 Sciences Reform Act of 2002 (Public Law 107–
24 279; 116 Stat. 1944) (hereinafter in this sec-



1 tion referred to as ‘the Institute’), the National
2 Center for Special Education Research.

3 “(B) COMMISSIONER.—The National Cen-
4 ter for Special Education Research shall be
5 headed by a Commissioner for Special Edu-
6 cation Research (hereinafter in this section re-
7 ferred to as ‘the Commissioner’). The Commis-
8 sioner shall be appointed by the Director of the
9 Institute (hereinafter in this section referred to
10 as ‘the Director’) in accordance with section
11 117 of the Education Sciences Reform Act of
12 2002. The Commissioner shall have substantial
13 knowledge of the Center’s activities, including a
14 high level of expertise in the fields of research
15 and research management.

16 “(2) APPLICABILITY OF EDUCATION SCIENCE
17 REFORM ACT OF 2002.—Parts A and E of the Edu-
18 cation Sciences Reform Act of 2002, as well as the
19 standards for peer review of applications and for the
20 conduct and evaluation of research under sections
21 133(a) and 134 of such Act, shall apply to the Sec-
22 retary, the Director, and the Commissioner in car-
23 rying out this section.

24 “(b) COMPETITIVE GRANTS.—The Director shall
25 make competitive grants to, or enter into contracts or co-



1 operative agreements with, eligible entities to expand the
2 fundamental knowledge and understanding of the edu-
3 cation of infants, toddlers, and children with disabilities
4 in order to improve educational results for such individ-
5 uals, in accordance with the priorities determined under
6 this section.

7 “(c) AUTHORIZED ACTIVITIES.—Activities that may
8 be carried out under this section include research
9 activities—

10 “(1) to improve services provided under this
11 Act in order to improve academic achievement for
12 children with disabilities;

13 “(2) to investigate scientifically based edu-
14 cational practices that support learning and improve
15 academic achievement and progress for all students
16 with disabilities;

17 “(3) to examine the special needs of preschool-
18 aged children and infants and toddlers with disabil-
19 ities, including factors that may result in develop-
20 mental delays;

21 “(4) to investigate scientifically based related
22 services and interventions that promote participation
23 and progress in the general education curriculum;

24 “(5) to improve the alignment, compatibility,
25 and development of valid and reliable assessment



1 methods for assessing adequate yearly progress, as
2 described under section 1111(b)(2)(B) of the Ele-
3 mentary and Secondary Education Act of 1965 (20
4 U.S.C. 6311(b)(2)(B));

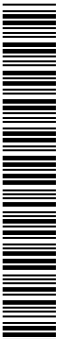
5 “(6) to improve the alignment, compatibility,
6 and development of valid and reliable alternate as-
7 sessment methods for assessing adequate yearly
8 progress, as described under such section
9 1111(b)(2)(B);

10 (7) to examine State content standards and al-
11 ternate assessments for students with a significant
12 cognitive impairment in terms of academic achieve-
13 ment, individualized instructional need, appropriate
14 educational settings, and improved post-school re-
15 sults;

16 “(8) to examine the educational and develop-
17 mental needs of children with high-incidence and
18 low-incidence disabilities;

19 “(9) to examine the extent to which over-identi-
20 fication and under-identification of children with dis-
21 abilities occurs, and the causes thereof;

22 “(10) to improve reading and literacy skills for
23 children with disabilities;



1 “(11) to examine and improve secondary and
2 postsecondary education and transitional needs of
3 children with disabilities;

4 “(12) to examine methods of early intervention
5 for children with disabilities who need significant
6 levels of support;

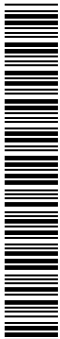
7 “(13) to examine universal design concepts in
8 the development of assessments, curricula, and in-
9 structional methods as a method to improve edu-
10 cational results for children with disabilities;

11 “(14) to improve the professional preparation
12 for personnel who provide educational and related
13 services to children with disabilities, including chil-
14 dren with low-incidence disabilities, to increase aca-
15 demic achievement of children with disabilities; and

16 “(15) to examine the excess costs of educating
17 a child with a disability and expenses associated with
18 high-cost special education and related services.

19 “(d) PLAN.—The National Center for Special Edu-
20 cation Research shall propose to the Director a research
21 plan, with the advice of the Assistant Secretary for Special
22 Education and Rehabilitative Services, that—

23 “(1) is consistent with the priorities and mis-
24 sion of the Institute of Educational Sciences and the
25 mission of the Special Education Research Center



1 and includes the activities described in paragraph
2 (3);

3 “(2) shall be carried out pursuant to paragraph
4 (4) and, as appropriate, be updated and modified;
5 and

6 “(3) carries out specific, long-term research ac-
7 tivities that are consistent with the priorities and
8 mission of the Institute of Educational Sciences, and
9 are approved by the Director.

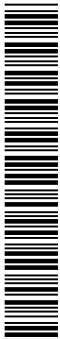
10 “(e) IMPLEMENTATION.—The National Center for
11 Special Education Research shall implement the plan pro-
12 posed under subsection (d)(2) to carry out scientifically
13 valid research that—

14 “(1) is consistent with the purposes of this Act;

15 “(2) reflects an appropriate balance across all
16 age ranges of children with disabilities;

17 “(3) provides for research that is objective and
18 that uses measurable indicators to assess its
19 progress and results;

20 “(4) includes both basic research and applied
21 research, which shall include research conducted
22 through field-initiated studies and which may in-
23 clude ongoing research initiatives;



1 “(5) ensures that the research conducted under
2 this section is relevant to special education practice
3 and policy;

4 “(6) synthesize and disseminate, through the
5 National Center for Education Evaluation and Re-
6 gional Assistance as well as activities authorized
7 under this Part, the findings and results of edu-
8 cation research conducted or supported by the Na-
9 tional Center for Special Education Research; and

10 “(7) assist the Director in the preparation of a
11 biennial report, as described in section 119 of the
12 Education Sciences Reform Act of 2003.

13 “(f) APPLICATIONS.—An eligible entity that wishes
14 to receive a grant, or enter into a contract or cooperative
15 agreement, under this section shall submit an application
16 to the Commissioner at such time, in such manner, and
17 containing such information as the Commissioner may
18 reasonably require.

19 **“SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
20 **PROJECTS, DISSEMINATION OF INFORMA-**
21 **TION, AND IMPLEMENTATION OF SCIENTIF-**
22 **ICALLY BASED RESEARCH.**

23 “(a) IN GENERAL.—The Secretary shall make com-
24 petitive grants to, or enter into contracts or cooperative
25 agreements with, eligible entities including regional re-

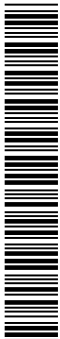


1 source centers and clearinghouses to provide technical as-
2 sistance, support model demonstration projects, dissemi-
3 nate useful information, and implement activities that are
4 supported by scientifically based research.

5 “(b) REQUIRED ACTIVITIES.—Funds received under
6 this section shall be used to support activities to improve
7 services provided under this Act, including the practices
8 of professionals and others involved in providing such serv-
9 ices to children with disabilities, that promote academic
10 achievement and improve results for children with disabil-
11 ities through—

12 “(1) implementing effective strategies for ad-
13 dressing inappropriate behavior of students with dis-
14 abilities in schools, including strategies to prevent
15 children with emotional and behavioral problems
16 from developing emotional disturbances that require
17 the provision of special education and related serv-
18 ices;

19 “(2) improving the alignment, compatibility,
20 and development of valid and reliable assessments
21 and alternate assessments for assessing adequate
22 yearly progress, as described under section
23 1111(b)(2)(B) of the Elementary and Secondary
24 Education Act of 1965;



1 “(3) providing training for both regular edu-
2 cation teachers and special education teachers to ad-
3 dress the needs of students with different learning
4 styles;

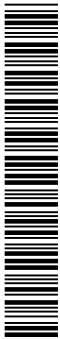
5 “(4) identifying innovative, effective, and effi-
6 cient curricula designs, instructional approaches,
7 and strategies, and identifying positive academic and
8 social learning opportunities, that—

9 “(A) provide effective transitions between
10 educational settings or from school to post
11 school settings; and

12 “(B) improve educational and transitional
13 results at all levels of the educational system in
14 which the activities are carried out and, in par-
15 ticular, that improve the progress of children
16 with disabilities, as measured by assessments
17 within the general education curriculum in-
18 volved; and

19 “(5) demonstrating and applying scientifically-
20 based findings to facilitate systemic changes, related
21 to the provision of services to children with disabil-
22 ities, in policy, procedure, practice, and the training
23 and use of personnel.

24 “(c) AUTHORIZED ACTIVITIES.—Activities that may
25 be carried out under this section include activities to im-



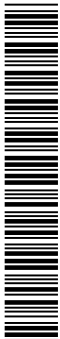
1 prove services provided under this Act, including the prac-
2 tices of professionals and others involved in providing such
3 services to children with disabilities, that promote aca-
4 demic achievement and improve results for children with
5 disabilities through—

6 “(1) applying and testing research findings in
7 typical service settings to determine the usefulness,
8 effectiveness, and general applicability of such re-
9 search findings in such areas as improving instruc-
10 tional methods, curricula, and tools, such as text-
11 books and media;

12 “(2) supporting and promoting the coordination
13 of early intervention and educational services for
14 children with disabilities with services provided by
15 health, rehabilitation, and social service agencies;

16 “(3) promoting improved alignment and com-
17 patibility of general and special education reforms
18 concerned with curricular and instructional reform,
19 and evaluation of such reforms;

20 “(4) enabling professionals, parents of children
21 with disabilities, and other persons to learn about,
22 and implement, the findings of scientifically-based
23 research, and successful practices developed in model
24 demonstration projects, relating to the provision of
25 services to children with disabilities;



1 “(5) conducting outreach, and disseminating in-
2 formation, relating to successful approaches to over-
3 coming systemic barriers to the effective and effi-
4 cient delivery of early intervention, educational, and
5 transitional services to personnel who provide serv-
6 ices to children with disabilities;

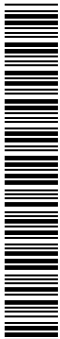
7 “(6) assisting States and local educational
8 agencies with the process of planning systemic
9 changes that will promote improved early interven-
10 tion, educational, and transitional results for chil-
11 dren with disabilities;

12 “(7) promoting change through a multistate or
13 regional framework that benefits States, local edu-
14 cational agencies, and other participants in partner-
15 ships that are in the process of achieving systemic-
16 change outcomes; or

17 “(8) focusing on the needs and issues that are
18 specific to a population of children with disabilities,
19 such as the provision of single-State and multi-State
20 technical assistance and in-service training—

21 “(A) to schools and agencies serving deaf-
22 blind children and their families;

23 “(B) to programs and agencies serving
24 other groups of children with low-incidence dis-
25 abilities and their families;



1 “(C) addressing the postsecondary edu-
2 cation needs of individuals who are deaf or
3 hard-of-hearing; and

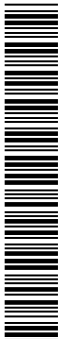
4 “(D) to schools and personnel providing
5 special education and related services for chil-
6 dren with autism spectrum disorders;

7 “(9) demonstrating models of personnel prepa-
8 ration to ensure appropriate placements and services
9 for all students and reduce disproportionality in eli-
10 gibility, placement, and disciplinary actions for mi-
11 nority and limited English proficient children; and

12 “(10) disseminating information on how to re-
13 duce racial and ethnic disproportionalities identified
14 under section 618.

15 “(d) BALANCE AMONG ACTIVITIES AND AGE
16 RANGES.—In carrying out this section, the Secretary shall
17 ensure that there is an appropriate balance across all age
18 ranges of children with disabilities.

19 “(e) LINKING STATES TO INFORMATION SOURCES.—
20 In carrying out this section, the Secretary shall support
21 projects that link States to technical assistance resources,
22 including special education and general education re-
23 sources, and shall make research and related products
24 available through libraries, electronic networks, parent
25 training projects, and other information sources, including



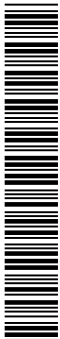
1 through the activities of the National Center for Evalua-
2 tion and Regional Assistance established under the Edu-
3 cation Sciences Reform Act.

4 “(f) APPLICATIONS.—

5 “(1) IN GENERAL.—An eligible entity that
6 wishes to receive a grant, or enter into a contract or
7 cooperative agreement, under this section shall sub-
8 mit an application to the Secretary at such time, in
9 such manner, and containing such information as
10 the Secretary may require.

11 “(2) STANDARDS.—To the maximum extent
12 feasible, each applicant shall demonstrate that the
13 project described in its application is supported by
14 scientifically valid research that has been carried out
15 in accordance with the standards for the conduct
16 and evaluation of all relevant research and develop-
17 ment established by the National Center for Edu-
18 cation Research.

19 “(3) PRIORITY.—As appropriate, the Secretary
20 shall give priority to applications that propose to
21 serve teachers and school personnel directly in the
22 school environment.



1 **“SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IM-**
2 **PROVE SERVICES AND RESULTS FOR CHIL-**
3 **DREN WITH DISABILITIES.**

4 “(a) IN GENERAL.—The Secretary shall, on a com-
5 petitive basis, make grants to, or enter into contracts or
6 cooperative agreements with, eligible entities—

7 “(1) to help address State-identified needs for
8 qualified personnel in special education, related serv-
9 ices, early intervention, and regular education, to
10 work with children with disabilities;

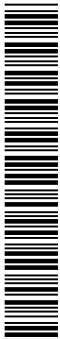
11 “(2) to ensure that those personnel have the
12 necessary skills and knowledge, derived from prac-
13 tices that have been determined, through scientif-
14 ically valid research, to be successful in serving those
15 children;

16 “(3) to encourage increased focus on academics
17 and core content areas in special education per-
18 sonnel preparation programs;

19 “(4) to ensure that regular education teachers
20 have the necessary skills and knowledge to provide
21 instruction to students with disabilities in the reg-
22 ular education classroom;

23 “(5) to provide high-quality professional devel-
24 opment for principals, superintendents, and other
25 administrators, including training in—

26 “(A) instructional leadership;



1 “(B) behavioral supports in the school and
2 classroom;

3 “(C) paperwork reduction;

4 “(D) promoting improved collaboration be-
5 tween special education and general education
6 teachers;

7 “(E) assessment and accountability;

8 “(F) ensuring effective learning environ-
9 ments; and

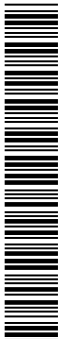
10 “(G) fostering positive relationships with
11 parents; and

12 “(6) to ensure that all special education teach-
13 ers teaching in core academic subjects are highly
14 qualified.

15 “(b) PERSONNEL PREPARATION; AUTHORIZED AC-
16 TIVITIES.—

17 “(1) IN GENERAL.—In carrying out this sec-
18 tion, the Secretary shall support activities, including
19 activities for high-incidence and low-incidence dis-
20 abilities, consistent with the objectives described in
21 subsection (a).

22 “(2) AUTHORIZED ACTIVITIES.—Activities that
23 may be carried out under this subsection include the
24 following:



1 “(A) Promoting activities undertaken by
2 institutions of higher education, local edu-
3 cational agencies, and other local entities—

4 “(i) to improve and reform their exist-
5 ing programs, and to support effective ex-
6 isting programs, to prepare teachers and
7 related services personnel—

8 “(I) to meet the diverse needs of
9 children with disabilities for early
10 intervention, educational, and transi-
11 tional services; and

12 “(II) to work collaboratively in
13 regular classroom settings; and

14 “(ii) to incorporate best practices and
15 scientifically based research about pre-
16 paring personnel—

17 “(I) so they will have the knowl-
18 edge and skills to improve educational
19 results for children with disabilities;
20 and

21 “(II) so they can implement ef-
22 fective teaching strategies and inter-
23 ventions to ensure appropriate identi-
24 fication, and to prevent the mis-identi-
25 fication or over-identification, of chil-



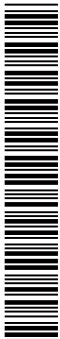
1 dren as having a disability, especially
2 minority and limited English pro-
3 ficient children.

4 “(B) Developing, evaluating, and dissemi-
5 nating innovative models for the recruitment,
6 induction, retention, and assessment of highly
7 qualified teachers to reduce shortages in per-
8 sonnel.

9 “(C) Developing and improving programs
10 for paraprofessionals to assist in the provision
11 of special education, related services, and early
12 intervention services, including interdisciplinary
13 training to enable them to improve early inter-
14 vention, educational, and transitional results for
15 children with disabilities.

16 “(D) Demonstrating models for the prepa-
17 ration of, and interdisciplinary training of, early
18 intervention, special education, and general edu-
19 cation personnel, to enable the personnel to ac-
20 quire the collaboration skills necessary to work
21 within teams to improve results for children
22 with disabilities, particularly within the general
23 education curriculum.

24 “(E) Promoting the transferability, across
25 State and local jurisdictions, of licensure and



1 certification of teachers and administrators
2 working with such children.

3 “(F) Developing and disseminating models
4 that prepare teachers with strategies, including
5 behavioral interventions, for addressing the con-
6 duct of children with disabilities that impedes
7 their learning and that of others in the class-
8 room.

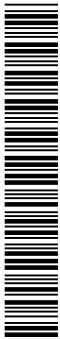
9 “(G) Developing and improving programs
10 to enhance the ability of general education
11 teachers, principals, school administrators, and
12 school board members to improve results for
13 children with disabilities;

14 “(H) Supporting institutions of higher
15 education with minority enrollments of at least
16 25 percent for the purpose of preparing per-
17 sonnel to work with children with disabilities.

18 “(I) Developing and improving programs
19 to train special education teachers with an ex-
20 pertise in autism spectrum disorders.

21 “(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED
22 ACTIVITIES.—

23 “(1) IN GENERAL.—In carrying out this sec-
24 tion, the Secretary shall support activities, consistent



1 with the objectives described in subsection (a), that
2 benefit children with low-incidence disabilities.

3 “(2) AUTHORIZED ACTIVITIES.—Activities that
4 may be carried out under this subsection include ac-
5 tivities such as the following:

6 “(A) Preparing persons who—

7 “(i) have prior training in educational
8 and other related service fields; and

9 “(ii) are studying to obtain degrees,
10 certificates, or licensure that will enable
11 them to assist children with low-incidence
12 disabilities to achieve the objectives set out
13 in their individualized education programs
14 described in section 614(d), or to assist in-
15 fants and toddlers with low incidence dis-
16 abilities to achieve the outcomes described
17 in their individualized family service plans
18 described in section 636.

19 “(B) Providing personnel from various dis-
20 ciplines with interdisciplinary training that will
21 contribute to improvement in early intervention,
22 educational, and transitional results for children
23 with low-incidence disabilities.

24 “(C) Preparing personnel in the innovative
25 uses and application of technology to enhance



1 learning by children with low-incidence disabil-
2 ities through early intervention, educational,
3 and transitional services.

4 “(D) Preparing personnel who provide
5 services to visually impaired or blind children to
6 teach and use Braille in the provision of serv-
7 ices to such children.

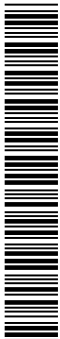
8 “(E) Preparing personnel who provide
9 services to deaf and hard of hearing children by
10 providing direct language and communication
11 access to the general education curriculum
12 through spoken or signed languages, or other
13 modes of communication.

14 “(F) Preparing personnel to be qualified
15 educational interpreters, to assist children with
16 low-incidence disabilities, particularly deaf and
17 hard-of-hearing children in school and school-
18 related activities and deaf and hard-of-hearing
19 infants and toddlers and preschool children in
20 early intervention and preschool programs.

21 “(3) DEFINITION.—As used in this section, the
22 term ‘low-incidence disability’ means—

23 “(A) a visual or hearing impairment, or si-
24 multaneous visual and hearing impairments;

25 “(B) a significant cognitive impairment; or



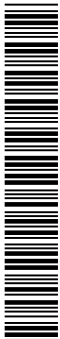
1 “(C) any impairment for which a small
2 number of personnel with highly specialized
3 skills and knowledge are needed in order for
4 children with that impairment to receive early
5 intervention services or a free appropriate pub-
6 lic education.

7 “(4) SELECTION OF RECIPIENTS.—In selecting
8 recipients under this subsection, the Secretary may
9 give preference to applications that propose to pre-
10 pare personnel in more than one low-incidence dis-
11 ability, such as deafness and blindness.

12 “(5) PREPARATION IN USE OF BRAILLE.—The
13 Secretary shall ensure that all recipients of assist-
14 ance under this subsection who will use that assist-
15 ance to prepare personnel to provide services to vis-
16 ually impaired or blind children that can appro-
17 priately be provided in Braille will prepare those in-
18 dividuals to provide those services in Braille.

19 “(d) LEADERSHIP PREPARATION; AUTHORIZED AC-
20 TIVITIES.—

21 “(1) IN GENERAL.—In carrying out this sec-
22 tion, the Secretary shall support leadership prepara-
23 tion activities that are consistent with the objectives
24 described in subsection (a).



1 “(2) AUTHORIZED ACTIVITIES.—Activities that
2 may be carried out under this subsection include ac-
3 tivities such as the following:

4 “(A) Preparing personnel at the graduate,
5 doctoral, and postdoctoral levels of training to
6 administer, enhance, or provide services to im-
7 prove results for children with disabilities.

8 “(B) Providing interdisciplinary training
9 for various types of leadership personnel, in-
10 cluding teacher preparation faculty, related
11 services faculty, administrators, researchers, su-
12 pervisors, principals, and other persons whose
13 work affects early intervention, educational, and
14 transitional services for children with disabil-
15 ities.

16 “(e) APPLICATIONS.—

17 “(1) IN GENERAL.—Any eligible entity that
18 wishes to receive a grant, or enter into a contract or
19 cooperative agreement, under this section shall sub-
20 mit an application to the Secretary at such time, in
21 such manner, and containing such information as
22 the Secretary may require.

23 “(2) IDENTIFIED STATE NEEDS.—

24 “(A) REQUIREMENT TO ADDRESS IDENTI-
25 FIED NEEDS.—Any application under sub-



1 section (b), (c), or (d) shall include information
2 demonstrating to the satisfaction of the Sec-
3 retary that the activities described in the appli-
4 cation will address needs identified by the State
5 or States the applicant proposes to serve.

6 “(B) COOPERATION WITH STATE EDU-
7 CATIONAL AGENCIES.—Any applicant that is
8 not a local educational agency or a State edu-
9 cational agency shall include information dem-
10 onstrating to the satisfaction of the Secretary
11 that the applicant and one or more State edu-
12 cational agencies or local educational agencies
13 will cooperate in carrying out and monitoring
14 the project.

15 “(3) ACCEPTANCE BY STATES OF PERSONNEL
16 PREPARATION REQUIREMENTS.—The Secretary may
17 require applicants to provide assurances from one or
18 more States that such States—

19 “(A) intend to accept successful completion
20 of the proposed personnel preparation program
21 as meeting State personnel standards or other
22 requirements in State law or regulation for
23 serving children with disabilities or serving in-
24 fants and toddlers with disabilities; and



1 “(B) need personnel in the area or areas
2 in which the applicant proposes to provide prep-
3 aration, as identified in the States’ comprehen-
4 sive systems of personnel development under
5 parts B and C.

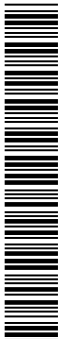
6 “(f) SELECTION OF RECIPIENTS.—

7 “(1) Impact of project.—In selecting recipients
8 under this section, the Secretary shall consider the
9 impact of the project proposed in the application in
10 meeting the need for personnel identified by the
11 States.

12 “(2) REQUIREMENT ON APPLICANTS TO MEET
13 STATE AND PROFESSIONAL STANDARDS.—The Sec-
14 retary shall make grants under this section only to
15 eligible applicants that meet State and profes-
16 sionally-recognized standards for the preparation of
17 special education and related services personnel, if
18 the purpose of the project is to assist personnel in
19 obtaining degrees.

20 “(3) PREFERENCES.—In selecting recipients
21 under this section, the Secretary may—

22 “(A) give preference to institutions of
23 higher education that are educating regular
24 education personnel to meet the needs of chil-
25 dren with disabilities in integrated settings and



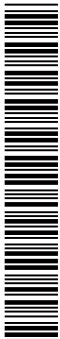
1 educating special education personnel to work
2 in collaboration with regular educators in inte-
3 grated settings; and

4 “(B) give preference to institutions of
5 higher education that are successfully recruiting
6 and preparing individuals with disabilities and
7 individuals from groups that are underrep-
8 resented in the profession for which they are
9 preparing individuals.

10 “(g) SERVICE OBLIGATION.—

11 “(1) IN GENERAL.—Each application for funds
12 under subsections (b) and (c) shall include an assur-
13 ance that the applicant will ensure that individuals
14 who receive a scholarship under the proposed project
15 will subsequently provide special education and re-
16 lated services to children with disabilities for a pe-
17 riod of 2 years for every year for which assistance
18 was received or repay all or part of the cost of that
19 assistance, in accordance with regulations issued by
20 the Secretary.

21 “(2) LEADERSHIP PREPARATION.—Each appli-
22 cation for funds under subsection (d) shall include
23 an assurance that the applicant will ensure that in-
24 dividuals who receive a scholarship under the pro-
25 posed project will subsequently perform work related



1 to their preparation for a period of 2 years for every
2 year for which assistance was received or repay all
3 or part of such costs, in accordance with regulations
4 issued by the Secretary.

5 “(h) SCHOLARSHIPS.—The Secretary may include
6 funds for scholarships, with necessary stipends and allow-
7 ances, in awards under subsections (b), (c), and (d).

8 **“SEC. 666. STUDIES AND EVALUATIONS.**

9 “(a) IN GENERAL.—

10 “(1) PROGRESS ASSESSMENT.—The Secretary
11 shall, in accordance with the priorities determined
12 under this section and in section 663, directly or
13 through competitive grants, contracts, or cooperative
14 agreements, assess the progress in the implementa-
15 tion of this Act, including the effectiveness of State
16 and local efforts to provide—

17 “(A) a free appropriate public education to chil-
18 dren with disabilities; and

19 “(B) early intervention services to infants and
20 toddlers with disabilities and infants and toddlers
21 who would be at risk of having substantial develop-
22 mental delays if early intervention services were not
23 provided to them.

24 “(2) DELEGATION.—Notwithstanding any other
25 provision of law, the Secretary shall designate the



1 Director of the Institute for Education Sciences to
2 carry out this section.

3 “(3) AUTHORIZED ACTIVITIES.—In carrying
4 out this subsection, the Secretary may support ob-
5 jective studies, evaluations, and assessments, includ-
6 ing studies that—

7 “(A) analyze issues identified in the re-
8 search agenda in section 663(d);

9 “(B) meets the standards in section
10 663(c); and

11 “(C) undertake one or more of the fol-
12 lowing:

13 “(i) An analysis of the measurable im-
14 pact, outcomes, and results achieved by
15 State educational agencies and local edu-
16 cational agencies through their activities to
17 reform policies, procedures, and practices
18 designed to improve educational and tran-
19 sitional services and results for children
20 with disabilities.

21 “(ii) An analysis of State and local
22 needs for professional development, parent
23 training, and other appropriate activities
24 that can reduce the need for disciplinary
25 actions involving children with disabilities.



1 “(iii) An assessment of educational
2 and transitional services and results for
3 children with disabilities from minority
4 backgrounds, including—

5 “(I) data on—

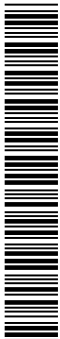
6 “(aa) the number of minor-
7 ity children who are referred for
8 special education evaluation;

9 “(bb) the number of minor-
10 ity children who are receiving
11 special education and related
12 services and their educational or
13 other service placement;

14 “(cc) the number of minor-
15 ity children who graduated from
16 secondary programs with a reg-
17 ular diploma in the standard
18 number of years; and

19 “(dd) the number of minor-
20 ity children who drop out of the
21 educational system without a reg-
22 ular diploma; and

23 “(II) the performance of children
24 with disabilities from minority back-
25 grounds on State assessments and

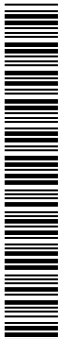


1 other performance indicators estab-
2 lished for all students.

3 “(iv) A measurement of educational
4 and transitional services and results of
5 children with disabilities served under this
6 Act, including longitudinal studies that—

7 “(I) examine educational and
8 transitional services and results for
9 children with disabilities who are 3
10 through 17 years of age and are re-
11 ceiving special education and related
12 services under this Act, using a na-
13 tional, representative sample of dis-
14 tinct age cohorts and disability cat-
15 egories; and

16 “(II) examine educational results,
17 transition services, postsecondary
18 placement, and employment status of
19 individuals with disabilities, 18
20 through 21 years of age, who are re-
21 ceiving or have received special edu-
22 cation and related services under this
23 Act; and



1 “(v) An identification and report on
2 the placement of children with disabilities
3 by disability category.

4 “(b) NATIONAL ASSESSMENT.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a national assessment of activities carried out
7 with Federal funds under this Act in order—

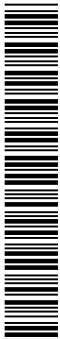
8 “(A) to determine the effectiveness of this
9 Act in achieving its purposes;

10 “(B) to provide timely information to the
11 President, the Congress, the States, local edu-
12 cational agencies, and the public on how to im-
13 plement the Act more effectively; and

14 “(C) to provide the President and the Con-
15 gress with information that will be useful in de-
16 veloping legislation to achieve the purposes of
17 this Act more effectively.

18 “(2) PUBLIC COMMENT.—

19 “(A) PLAN.—Not later than 12 months
20 after the date of enactment of the Improving
21 Education Results for Children With Disabil-
22 ities Act of 2003, the Secretary shall publish in
23 the Federal Register for public comment a com-
24 prehensive plan for developing and conducting
25 the national assessment.



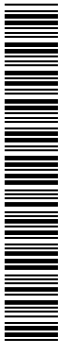
1 “(B) COMMENT PERIOD.—The Secretary
2 shall provide a public comment period of at
3 least 30 days on such plan.

4 “(3) SCOPE OF ASSESSMENT.—The national as-
5 sessment shall assess the—

6 “(A) implementation of programs assisted
7 under this Act and the impact of such pro-
8 grams on addressing the developmental needs
9 of, and improving the academic achievement of,
10 children with disabilities to enable them to
11 reach challenging developmental goals and chal-
12 lenging State academic content standards based
13 on State academic assessments;

14 “(B) types of programs and services that
15 have demonstrated the greatest likelihood of
16 helping students reach the challenging State
17 academic content standards and developmental
18 goals;

19 “(C) implementation of the professional
20 development activities assisted under this Act
21 and the impact on instruction, student aca-
22 demic achievement, and teacher qualifications
23 to enhance the ability of special education
24 teachers and regular education teachers to im-
25 prove results for children with disabilities;



1 “(D) effectiveness of schools, local edu-
2 cational agencies, States, other recipients of as-
3 sistance under this Act, and the Secretary in
4 achieving the purposes of this Act by—

5 “(i) improving the academic achieve-
6 ment of children with disabilities and their
7 performance on regular State-wide assess-
8 ments as compared to nondisabled chil-
9 dren, and the performance of children with
10 disabilities on alternate assessments;

11 “(ii) improving the participation of
12 children with disabilities in the general
13 education curriculum;

14 “(iii) improving the transitions of chil-
15 dren with disabilities at natural transition
16 points—

17 “(iv) placing and serving children with
18 disabilities, including minority children, in
19 the least restrictive environment appro-
20 priate;

21 “(v) preventing children with disabil-
22 ities, especially children with emotional dis-
23 turbances and specific learning disabilities,
24 from dropping out of school;



1 “(vi) addressing the reading and lit-
2 eracy needs of children with disabilities;

3 “(vii) reducing the over-identification
4 of children, especially minority and limited
5 English proficient children, as having a
6 disability;

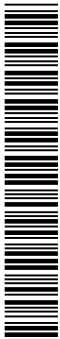
7 “(viii) improving the participation of
8 parents of children with disabilities in the
9 education of their children; and

10 “(ix) resolving disagreements between
11 education personnel and parents through
12 alternate dispute resolution activities in-
13 cluding mediation and voluntary binding
14 arbitration.

15 “(4) INTERIM AND FINAL REPORTS.—The Sec-
16 retary shall submit to the President and the
17 Congress—

18 “(A) an interim report that summarizes
19 the preliminary findings of the assessment not
20 later than 30 months after the date of the en-
21 actment of the Improving Education Results for
22 Children With Disabilities Act of 2003; and

23 “(B) a final report of the findings of the
24 assessment not later than 5 years after the date
25 of the enactment of such Act.



1 “(c) ANNUAL REPORT.—The Secretary shall provide
2 an annual report to the Congress that—

3 “(1) summarizes the research conducted under
4 section 663;

5 “(2) analyzes and summarizes the data re-
6 ported by the States and the Secretary of the Inte-
7 rior under section 618;

8 “(3) summarizes the studies and evaluations
9 conducted under this section and the timeline for
10 their completion;

11 “(4) describes the extent and progress of the
12 national assessment; and

13 “(5) describes the findings and determinations
14 resulting from reviews of State implementation of
15 this Act.

16 **“SEC. 667. AUTHORIZATION OF APPROPRIATIONS.**

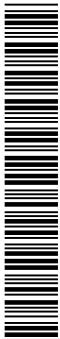
17 “There are authorized to be appropriated to carry out
18 this subpart \$261,861,000 for fiscal year 2004 and such
19 sums as may be necessary for each of the fiscal years 2005
20 through 2009.

21 **“Subpart 3—Supports to Improve Results for**

22 **Children With Disabilities**

23 **“SEC. 671. PURPOSES.**

24 “The purposes of this subpart are to ensure that—



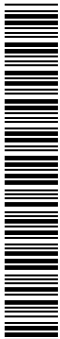
1 “(1) children with disabilities and their parents
2 receive training and information on their rights, re-
3 sponsibilities, and protections under this Act, in
4 order to develop the skills necessary to cooperatively
5 and effectively participate in planning and decision
6 making relating to early intervention, educational,
7 and transitional services;

8 “(2) parents, teachers, administrators, early
9 intervention personnel, related services personnel,
10 and transition personnel receive coordinated and ac-
11 cessible technical assistance and information to as-
12 sist them in improving early intervention, edu-
13 cational, and transitional services and results for
14 children with disabilities and their families; and

15 “(3) appropriate technology and media are re-
16 searched, developed, and demonstrated, to improve
17 and implement early intervention, educational, and
18 transitional services and results for children with
19 disabilities and their families.

20 **“SEC. 672. PARENT AND COMMUNITY TRAINING AND INFOR-**
21 **MATION CENTERS.**

22 “(a) PROGRAM AUTHORIZED.—The Secretary may
23 make grants to, and enter into contracts and cooperative
24 agreements with, parent and community organizations to



1 support parent and community training and information
2 centers to carry out activities under this section.

3 “(b) REQUIRED ACTIVITIES.—Each parent and com-
4 munity training and information center that receives as-
5 sistance under this section shall—

6 “(1) provide training and information that
7 meets the needs of parents of children with disabil-
8 ities living in the area served by the center, includ-
9 ing underserved parents and parents of children who
10 may be inappropriately identified, to enable children
11 with disabilities—

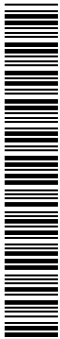
12 “(A) to meet developmental and chal-
13 lenging academic achievement goals that have
14 been established for all children; and

15 “(B) to be prepared to lead productive
16 independent adult lives to the maximum extent
17 possible.

18 “(2) ensure that the training and information
19 provided meets the needs of low-income parents and
20 parents of children with limited English proficiency;

21 “(3) serve the parents of infants, toddlers, and
22 children with the full range of disabilities;

23 “(4) assist parents—



1 “(A) to better understand the nature of
2 their children’s disabilities and their edu-
3 cational, developmental, and transitional needs;

4 “(B) to communicate effectively and work
5 collaboratively with personnel responsible for
6 providing special education, early intervention,
7 transition services, and related services;

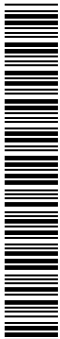
8 “(C) to participate in decisionmaking proc-
9 esses and the development of individualized
10 education programs under part B and individ-
11 ualized family service plans under part C;

12 “(D) to obtain appropriate information
13 about the range, type and quality of options,
14 programs, services, and resources available to
15 assist children with disabilities and their fami-
16 lies in school and at home;

17 “(E) to understand the provisions of this
18 Act for the education of, and the provision of
19 early intervention services to, children with dis-
20 abilities; and

21 “(F) to participate in activities at the
22 school level which benefit their children;

23 “(5) assist parents in resolving disputes in the
24 most expeditious way possible, including encouraging
25 the use, and explaining the benefits, of alternative



1 methods of dispute resolution, such as the use of in-
2 dividualized education program facilitators and me-
3 diation and voluntary binding arbitration processes
4 described in section 615(e);

5 “(6) assist parents to understand the avail-
6 ability of, and how to effectively use, procedural
7 safeguards under this Act;

8 “(7) network with appropriate clearinghouses,
9 including organizations conducting national dissemi-
10 nation activities under subpart 2 and the Institute
11 of Educational Sciences, and with other national,
12 State, and local organizations and agencies, such as
13 protection and advocacy agencies, that serve parents
14 and families of children with the full range of dis-
15 abilities; and

16 “(8) annually report to the Secretary on—

17 “(A) the number and demographics of par-
18 ents to whom it provided information and train-
19 ing in the most recently concluded fiscal year;
20 and

21 “(B) the effectiveness of strategies used to
22 reach and serve parents, including underserved
23 parents of children with disabilities.



1 “(c) OPTIONAL ACTIVITIES.—A parent training and
2 community and information center that receives assistance
3 under this section may—

4 “(1) provide information to teachers and other
5 professionals to assist them in improving results for
6 children with disabilities; and

7 “(2) assist students with disabilities to under-
8 stand their rights and responsibilities under section
9 615(l) on reaching the age of majority.

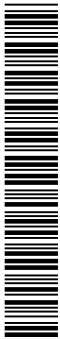
10 “(d) APPLICATION REQUIREMENTS.—Each applica-
11 tion for assistance under this section shall identify with
12 specificity the special efforts that the applicant will
13 undertake—

14 “(1) to ensure that the needs for training and
15 information of underserved parents of children with
16 disabilities in the area to be served are effectively
17 met; and

18 “(2) to work with community-based organiza-
19 tions, including those that work with low-income
20 parents and parents of children with limited English
21 proficiency.

22 “(e) DISTRIBUTION OF FUNDS.—

23 “(1) IN GENERAL.—The Secretary shall make
24 at least 1 award to a parent organization in each
25 State, unless the Secretary does not receive an appli-



1 cation from such an organization in each State of
2 sufficient quality to warrant approval.

3 “(2) SELECTION REQUIREMENT.—The Sec-
4 retary shall select among applications submitted by
5 parent organizations in a State in a manner that en-
6 sures the most effective assistance to parents, in-
7 cluding parents in urban and rural areas, in the
8 State.

9 “(f) QUARTERLY REVIEW.—

10 “(1) REQUIREMENTS.—

11 “(A) MEETINGS.—The board of directors
12 or special governing committee of each organi-
13 zation that receives an award under this section
14 shall meet at least once in each calendar quar-
15 ter to review the activities for which the award
16 was made.

17 “(B) ADVISING BOARD.—Each special gov-
18 erning committee shall directly advise the orga-
19 nization’s governing board of its views and rec-
20 ommendations.

21 “(2) CONTINUATION AWARD.—When an organi-
22 zation requests a continuation award under this sec-
23 tion, the board of directors or special governing com-
24 mittee shall submit to the Secretary a written review
25 of the parent training and information program con-



1 ducted by the organization during the preceding fis-
2 cal year.

3 “(g) DEFINITION OF PARENT ORGANIZATION.—As
4 used in this section, the term ‘parent organization’ means
5 a private nonprofit organization (other than an institution
6 of higher education) that—

7 “(1) has a board of directors—

8 “(A) the majority of whom are parents of
9 children with disabilities ages birth through 26;

10 “(B) that includes—

11 “(i) individuals working in the fields
12 of special education, related services, and
13 early intervention; and

14 “(ii) individuals with disabilities; and

15 “(C) the parent and professional members
16 of which are broadly representative of the popu-
17 lation to be served, including low-income and
18 limited English proficient parents of children
19 with disabilities; or;

20 “(2) has—

21 “(A) a membership that represents the in-
22 terests of individuals with disabilities and has
23 established a special governing committee that
24 meets the requirements of paragraph (1); and



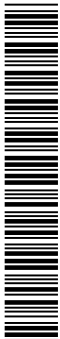
1 “(B) a memorandum of understanding be-
2 tween the special governing committee and the
3 board of directors of the organization that
4 clearly outlines the relationship between the
5 board and the committee and the decision-
6 making responsibilities and authority of each.

7 **“SEC. 673. TECHNICAL ASSISTANCE FOR PARENT AND COM-**
8 **MUNITY TRAINING AND INFORMATION CEN-**
9 **TERS.**

10 “(a) IN GENERAL.—The Secretary may, directly or
11 through awards to eligible entities (as defined in section
12 662(b)), provide technical assistance for developing, as-
13 sisting, and coordinating parent and community training
14 and information programs carried out by parent and com-
15 munity training and information centers receiving assist-
16 ance under sections 672.

17 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
18 provide technical assistance to a parent and community
19 training and information center under this section in areas
20 such as—

- 21 “(1) effective coordination of parent training ef-
22 forts;
23 “(2) dissemination of scientifically based re-
24 search and information;



1 “(3) promotion of the use of technology, includ-
2 ing assistive technology devices and assistive tech-
3 nology services;

4 “(4) reaching underserved populations, includ-
5 ing parents of low income and limited English pro-
6 ficient children with disabilities;

7 “(5) including children with disabilities in gen-
8 eral education programs;

9 “(6) facilitation of transitions from—

10 “(A) early intervention services to pre-
11 school;

12 “(B) preschool to elementary school;

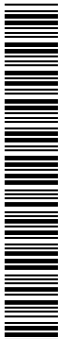
13 “(C) elementary school to secondary
14 school; and

15 “(D) secondary school to postsecondary en-
16 vironments; and

17 “(7) promotion of alternative methods of dis-
18 pute resolution, including mediation and voluntary
19 binding arbitration.

20 **“SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
21 **AND UTILIZATION; AND MEDIA SERVICES.**

22 “(a) IN GENERAL.—The Secretary shall competi-
23 tively make grants to, and enter into contracts and cooper-
24 ative agreements with, eligible entities (as defined in sec-



1 tion 662(b)) to support activities described in subsections
2 (b) and (c).

3 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-
4 TION, AND UTILIZATION.—

5 “(1) IN GENERAL.—In carrying out this sec-
6 tion, the Secretary shall support activities to pro-
7 mote the development, demonstration, and utiliza-
8 tion of technology.

9 “(2) AUTHORIZED ACTIVITIES.—The following
10 activities may be carried out under this subsection:

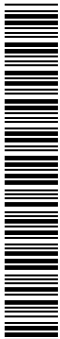
11 “(A) Conducting research on, and pro-
12 moting the demonstration and use of—

13 “(i) innovative and emerging tech-
14 nologies for children with disabilities; and

15 “(ii) improved transfer of technology
16 from research and development to practice.

17 “(B) Supporting research, development,
18 and dissemination of technology with universal-
19 design features, so that the technology is acces-
20 sible to individuals with disabilities without fur-
21 ther modification or adaptation.

22 “(C) Demonstrating the use of systems to
23 provide parents and teachers with information
24 and training concerning early diagnosis of,
25 intervention for, and effective teaching strate-



1 gies for, young children with reading disabil-
2 ities.

3 “(D) Supporting the implementation of re-
4 search programs.

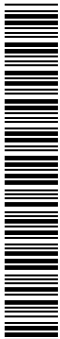
5 “(E) Communicating information on avail-
6 able technology and the uses of such technology
7 to assist children with disabilities.

8 “(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-
9 TIVITIES.—In carrying out this section, the Secretary may
10 support—

11 “(1) educational media activities that are de-
12 signed to be of educational value in the classroom
13 setting to children with disabilities;

14 “(2) providing video description, open cap-
15 tioning, or closed captioning of television programs,
16 videos, or other materials with an education-based
17 content for use in the classroom setting when such
18 services are not provided by the producer or dis-
19 tributor of such information, including programs
20 and materials associated with new and emerging
21 technologies such as CDs, DVDs, video streaming,
22 and other forms of multimedia;

23 “(3) distributing materials described in para-
24 graphs (1) and (2) through such mechanisms as a
25 loan service; and



1 “(4) providing free educational materials, in-
2 cluding textbooks, in accessible media for visually
3 impaired and print-disabled students in elementary
4 and secondary schools.

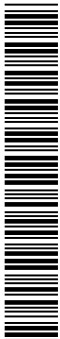
5 “(d) APPLICATIONS.—Any eligible entity (as defined
6 in section 662(b)) that wishes to receive a grant, or enter
7 into a contract or cooperative agreement, under this sec-
8 tion shall submit an application to the Secretary at such
9 time, in such manner, and containing such information as
10 the Secretary may require. For purposes of paragraph (4),
11 such entity shall—

12 (1) be a national, not-for-profit with a track
13 record of meeting the needs of students with print
14 disabilities through services described in paragraph
15 (4);

16 (2) have the capacity to produce, maintain, and
17 distribute in a timely fashion, up-to-date textbooks
18 in digital audio formats to qualified students; and

19 (3) have a demonstrated ability to significantly
20 leverage Federal funds through other public and pri-
21 vate contributions, as well as through the expansive
22 use of volunteers.

23 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this subpart
25 \$58,710,000 for fiscal year 2004 and such sums as may



1 be necessary for each of the fiscal years 2005 through
2 2009.”.

